

THE RECOGNITION OF THE ETHICAL IN THE CONTEXT OF PROFESSIONAL LIFE

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BA(hons)

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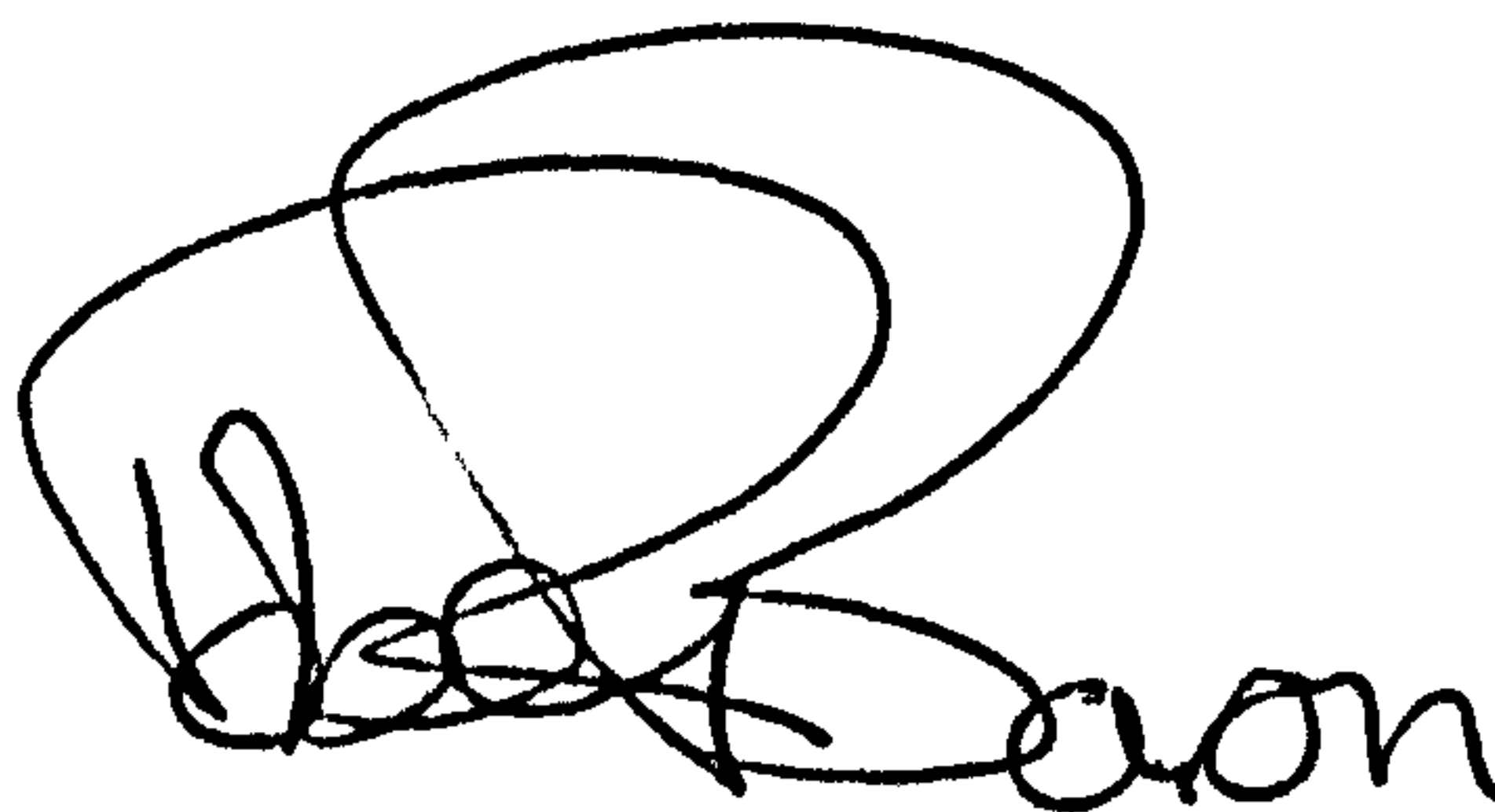
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A handwritten signature in black ink. It features a large, stylized capital 'R' that loops around the first part of the name. Below the 'R', the name 'Robert Baron' is written in a cursive script. The signature is positioned to the right of the 'Signature' label.

Date 20-12-99

ABSTRACT

This thesis examines the ways in which ethical considerations are recognised in the context of professional life. It combines an empirical survey of the ethical opinions and practices of nursing professionals with philosophical analysis. Its central aim is to investigate the perceived discontinuity between the sort of theories traditionally offered by philosophers to provide guidance for ethical decision making and the *actual* decision making procedures typically engaged in by professionals in their daily working practices. Eventually the thesis seeks to identify an approach to professional ethics that is *both* theoretically plausible and practically useful.

It is contended that a key way into the debate is to identify the two broad types of philosophical approach to the distinctive nature of professional ethics. These are labelled "The Moral Theory Approach" and "Contextualism". The Moral Theory Approach includes any specific theory which adopts the two fundamental principles of universalizability and impartiality, and the presuppositions that moral argument should be rationalistic in procedure and prioritise conceptions of what it is right to do over what it is good to be. The various forms of contextualism, by contrast, reject all of the aforementioned principles and presuppositions. At this point it is noted that while The Moral Theory Approach represents the "dominant" philosophical conception of the relationship between theory and practice, the evidence gathered in the empirical survey clearly favours a contextualist interpretation. From here onwards the contextualist position is supported by drawing upon theoretical arguments and empirical evidence to expose deep and irresolvable flaws in the principles and presuppositions of The Moral Theory Approach. These flaws are shown to account for the perceived discontinuity between ethical theory and professional practice, thus once they are diagnosed a contextualist alternative is shown to offer a theoretically and practically sustainable alternative.

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Finally, a big thank you to my family and friends who have provided inestimable personal support during the many difficult times that I have encountered during the production of this thesis.

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INTRODUCTION

This introduction divides into three sections. In section I, I discuss the rationale for the research. First, I provide a short account of origins of the research and outline the main philosophical reason for studying "The Recognition of the Ethical in the Context of Professional Life". Second, I provide a brief account of how the research progressed and developed. In section II, I describe the methodologies used in the research. I identify philosophical analysis as the primary form of methodology, but also pay particular attention to the nature of the empirical research conducted among nurses (which provides a constant "practical" reference point for the philosophical claims I make throughout the thesis). In section III, I provide an overview of the arguments that I develop through the course of the thesis.

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I

Rationale for the Research

(A) Origins

Applied ethics (and hence professional ethics) is a relatively new area of academic study that began to constitute a significantly distinctive philosophical enterprise around the end of the 1960s¹. One of the key factors in its development was undoubtedly the heightened public prominence given to an increasing number and range of moral dilemmas occurring in professional life. In particular technological advances in the field of medicine created (and continue to create) a plethora of moral problems that practitioners seemed ill equipped to resolve². Philosophers with an expertise in ethical theory seemed to present an obvious "solution" to this "deficit" in moral knowledge, and with problems concerning the application of ethical principles. The assumptions lying behind this view were that philosophers can: first, provide a

justification for adopting some particular moral theory's set of principles and rules; and, second, show how those principles and rules can be applied to specific areas of practice³. Applied ethics, then, quite aptly became the name for an activity in which an independently established moral theory is applied "top-down" to particular ethical problems. This "top-down" approach has been described as representing the "dominant conception" in applied ethics as it has formed the most common philosophical method adopted by theorists⁴. The prevalence of this approach should really come as no surprise as it flows quite naturally from the dominant traditional philosophical approach to ethical decision making adopted by theorists as different as Kantians and utilitarians. Despite the substantive differences in Kantian and utilitarian theories both approaches presuppose that the justification of any particular moral action depends upon it being sanctioned by (or derivable from) universal and impartial principles of moral theory.

However, the original proposal of this research to investigate "The Recognition of the Ethical in the Context of Professional Life" had its source in evidence that philosophers working in the field of applied (professional) ethics were failing to show that ethical theory (principles and rules) could usefully be applied to resolve practical moral problems. Scepticism about the ability of philosophers to carry out this task has developed both from within the professions and within the philosophical community itself. Professionals frequently express bewilderment and doubt about the practical usefulness of ethical theories, finding that knowledge of utilitarianism, Kantianism, contractualism etc. still leaves them perplexed about what they are morally obliged to do in any particular case⁵. Philosophers, in support of this view, have independently argued that the very idea of applied ethics is theoretically flawed⁶. However, these two different sources of criticism, while related, have largely developed in isolation from each other. Thus, *the possibility of combining the perspectives of professionals and philosophers together in one piece of work presented itself as an obvious way in which to make a constructive addition to the*

discussion of professional ethics. Accordingly the aim of this thesis is to examine both lines of criticism together by embedding the results of an extensive survey of opinion among professionals (nurses) within a critical examination of the theoretical arguments of the philosophers. The fundamental point of this is to *establish whether the views and working practices of professionals (nurses) provide evidence for the theoretical claims of philosophers sceptical of the dominant conception of applied ethics*, or whether the dominant conception can be upheld.

(B) Progress and Development

It is, perhaps, both an inevitable and constructive feature of any piece of social research that it begins with an initial conception of how it should progress but develops in ways, which can be quite unexpected. This is even more obviously the case with this piece of research, which has sought to combine traditional methods of philosophical analysis with empirical methods of surveying professional opinion. This, of course, is not typical for a piece of philosophical research and as a consequence considerable effort was expended in a period of trial and error in order to establish which empirical methods were most appropriate in feeding information into philosophical analysis. The result has often been that certain lines of empirical enquiry either had to be abandoned or radically reformulated. Indeed, it is fair to say that it was the empirical aspect of the research that raised the most difficult questions and problems. I wish to mention three of the most influential issues here. First, there was the question of *whom to survey* to get a genuinely representative understanding of the ways in which professionals "recognise the ethical" in their working lives. Secondly, there was the question of *how to survey* the opinion of professionals in a way that genuinely reflects their ethical views and practices. Thirdly, there was the question of *how to embed the empirical research within a broader philosophical analysis* of the recognition of the ethical in the context of professional life. I shall comment upon the first of these issues here and discuss the latter two issues in the next section on methodology.

At the outset of the research it was decided that while the reading for it could range widely over a variety of different professional contexts the empirical survey among professionals should focus upon two professions. There were two main reasons for this. The first consideration concerned the issue of time resources: as this thesis is fundamentally a piece of philosophy the bulk of the time expended on it needed to be spent in philosophical analysis and not in empirically investigating large numbers of professional practices. The second consideration concerned the wish to examine professional ethics in both public sector and private sector contexts in order to see whether any relevant differences emerge. Accordingly, nursing, midwifery and health visiting, and business management were selected as appropriate areas for the empirical survey.

Business management was, of course, a controversial area to select for a study of professional ethics; however, there were good reasons to choose it in the context of this piece of research. First, there is clear evidence that business management as an occupation is perceived as comparable to other forms of professional life (for example, managers are seen as belonging to the same sort of class and status as professionals). Second, there are clear examples of business management which structurally resemble key features of paradigm professions (for example, bank managers and lawyers both provide crucial services, and both are held accountable for protecting the best interests of their clients). Third, the widespread introduction of the postgraduate award Master of Business Administration (MBA) can be seen as paralleling the sort of university qualifications achieved by standard professionals. Fourth, a number of academic authors see business ethics as being best developed along the same lines as professional ethics⁷. Finally, business management provided the best opportunity for comparing ethical opinions surveyed from the private sector with those surveyed from a largely public sector context.

The choice of nursing, midwifery and health visiting (hereafter abbreviated to nursing) was relatively uncontroversial. While it does not share the same public status as the paradigm professions of medicine and law the evidence that it has professionalised is indisputable. Since the implementation of the Nurses, Midwives and Health Visitors Act 1979 which brought into being its own independent regulatory body (the United Kingdom Central Council for Nursing, Midwifery and Health Visiting, UKCC), nursing has undergone a very explicit self-conscious process of professionalisation. I discuss this process at length in chapter 1, so will comment no further here.

There was an immediate and good response from the nursing profession to a variety of different survey techniques and a substantial amount of empirical evidence was accumulated for initial analysis. However, response from business management was poor. Initially I attempted to survey the opinions of bank managers as the sort of service they provide and the accountability they have to serve the best interests of their clients bears a striking resemblance to that of other professionals (mentioned above). I contacted the head offices of all the major banks and building societies requesting the opportunity to interview branch managers and/or individuals responsible for ethical issues within their companies. However, none of them were willing to cooperate with the research (although a few kindly sent me their annual reports). As a consequence I cast my net wider seeking interviews with any business managers by sending letters to chambers of commerce in the West Midlands area asking them to put me in contact with any interested companies or individuals, and also by using informal contacts. This time I had a more positive response although it still represented nothing like as good as the response gained from the nursing profession. By the time I produced the transfer document from MPhil to PhD the state of the empirical research stood as follows:

Nursing, Midwifery and Health Visiting

(a) Questionnaires - 163

(b) Focused interviews - 31

(c) Written reports from professionals - 13

(d) Observations - 11 (9 ethics training sessions, 2 hospital ethics committees)

Business Management

(a) Questionnaires - 13

(b) Focused interviews - 11

(c) Written reports from managers - 1

(d) Observations - 1 (conference)

As I stated in the transfer document the difference between the figures for nursing and the figures for business management represented a serious threat to the idea that the two sets of data could be genuinely or usefully compared. Accordingly, at that stage I proposed to continue with a strenuous effort to gain more co-operation from the business community in the hope of generating enough empirical data for comparison. However, I also identified two alternative strategies to pursue with the research and maintain the integrity of its original aims if this data was not eventually forthcoming. The first option involved concentrating solely on the nursing profession as the source of empirical data for the research. Although this loses an in-depth comparison with the commercial sector there remained the opportunity for a comparison within the nursing profession of the opinions of nurses working in public sector and private sector contexts. The second option involved limiting the comparison of nursing and business management to the extant literature. The empirical data thus gathered from among business managers would then be compared only with the literature on business management ethics (to see, for example, whether the literature accurately reflects the opinions of managers) and this in turn compared with the literature on nursing ethics.

In the months that followed the passing of the transfer document some significant progress was made with generating more empirical data from among business managers. However, in my judgement the data produced was insufficient for comparison with the data collected from nursing, for two main reasons. First, the difference in the quantity of empirical data collected from the two sources continued to increase, so much so that comparison became implausible. Second, and more importantly, the *quality* of the data collected significantly differed. In order to generate more data from business management, managers from quite different sorts of companies were surveyed (from large corporations down to very small family firms) with the result that it became clear that they represented a rather disparate collection of individuals with no clear identity. It was, in effect, impossible to determine a coherent and consistent view that could be said to represent the ethical opinions of business managers. That meant in turn that there was no clear set of opinions of business managers that could be compared with the opinions of nurses. This in itself is an interesting finding and deserves further research elsewhere; however, given the nature of the research proposal for this thesis it represented a clear obstacle to fulfilling its objectives. It also became clear that the second alternative strategy proposed in the transfer document (described above, page x) would also prove fruitless in pursuing the research objectives. Thus, it became obvious that the most coherent way to proceed with the empirical research was to concentrate solely on the nursing profession. Naturally it was frustrating to find that a very considerable amount of research (reading and surveying) would find no place in the final thesis; however, I hope that the lessons learnt travelling up this particular cul-de-sac have led to a much tighter argument than would otherwise have been the case.

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II

Methodology

Use of a variety of methodologies was needed in gathering and analysing the data for the research. Their choice was guided by three important considerations. First (and foremost), the research has been produced as a work of philosophy, thus the primary methodology used throughout the thesis is philosophical analysis. The second consideration concerned the means by which the empirical data should be gathered from the nursing profession. The key issues here were that the data collected should be comprehensive and impartial. Accordingly, this involved the application of some well-established social research methods. The third consideration concerned the question of how best to incorporate the data gathered from the nursing profession into the philosophical analysis which forms the body of the research.

(A) Philosophical Analysis

What constitutes philosophical analysis is exceptionally difficult to describe in general terms. To say that it involves critical reflection upon concepts and theories requiring the identification and assessment of the presuppositions lying behind their meaning and use is of course true but not very helpful. Luckily, however, philosophical analysis is easy to spot when it presents itself, especially in written form, and I feel confident that the reader will see that this thesis clearly belongs to the philosophical tradition. In particular, chapter 2 will lay out very explicitly what constitutes philosophical analysis in the specific field of applied ethics.

I have utilised two main sources for philosophical analysis: texts and the data gathered from the empirical survey of the nursing profession.

(i) Texts

The most extensive source utilised for philosophical analysis in this research is a variety of academic and professional *texts*. These discuss issues of moral theory and practical (professional) ethics. The majority of these were books and journals produced by academics working in philosophy departments. This was supported by a survey of books and journals written by nursing professionals. (Additionally, for chapter 1 only, sociological texts were surveyed in order to discuss the concept of a profession.) These texts can be grouped into three general semi-distinct and overlapping categories which I shall label "Meta-Ethical Theory", "Moral Theory" and "Practical Ethics". Some texts fall solely into one or other of these categories, some cut across two of them, and many cut across all three (depending upon the particular presuppositions and objectives of the authors concerned).

(a) Meta-Ethical Theory

"Meta-ethics" is a term that I use with a health warning as it has a controversial history (which I discuss at length in chapter 2). It had its origins in the use by certain positivistic philosophers to describe a logico-linguistic analysis of moral language which, it was claimed, is entirely free of any normative implications⁸. This understandably resulted in many critics rejecting the term as it became clear that what one says about the logic, meaning, and use of moral language will inevitably affect one's substantive ethical views⁹. However, while I agree with the critics that philosophical analysis of moral language will always have substantive implications, I believe *it is worth preserving the (reconstructed) term to identify those philosophical works that are concerned primarily with the question of how we think (or should think) ethically rather than with the question of what we think (or should think) ethically*. For example, some of the most influential recent works in philosophical ethics such as Alasdair MacIntyre's "After Virtue", Charles Taylor's "Sources of the Self", Bernard Williams's "Ethics and The Limits of Philosophy" are clearly books concerned with the question of *how* we think (or should think) when we engage in

ethical reasoning¹⁰. While their arguments have important implications for determining *what* to think ethically, none of these authors are really concerned to identify any specific principles or rules. Given the objectives of their books they understandably see that this activity belongs to a different type of work ("moral theory" and/or "practical ethics"). It is worth noting here that meta-ethics redefined in terms of the question concerning how to think ethically provides a perfect label for this thesis. My concern in this research is certainly not to make any direct suggestions about what specific principles, rules and values nurses should incorporate into working practice. Rather, I am concerned to analyse how nurses think and could improve their thinking about ethical issues, from which I draw general conclusions about the nature of moral reasoning in professional life (in chapter 2 I describe this as providing a "meta-ethical foundation for professional ethics").

(b) Moral Theory

Texts in this category tend to overlap to some extent with meta-ethical theory and practical ethics. However, *what singles them out as a reasonably distinct class is that they seek to defend some particular systematic theory with direct conclusions about what fundamental principles and rules should guide moral decision making*. Thus the works of Kant, Mill, Sidgwick, Habermas etc. fall into this category¹¹. To varying degrees these authors engage in meta-ethical analysis, however, their major preoccupation is to establish some set of universal and impartial principles for direct application to practical contexts (see chapter 2).

(c) Practical Ethics

Texts in this category include a greater variety of authors and styles. Whereas meta-ethics and moral theory are pretty much the exclusive province of philosophers, contributors to practical ethics also include professionals (nurses, doctors, lawyers etc.) and lay persons (for example, lobbyists such as environmentalists, anti-vivisectionists, etc.). *The concern of texts in practical ethics is to identify or raise*

specific ethical questions and problems and provide support for adopting some particular answer(s). Thus, Peter Singer's well known book "Practical Ethics"¹² seeks to answer specific questions about abortion, and animal rights (etc). Ruth Chadwick and Winn Tadd in their book "Ethics and Nursing Practice", seek to answer specific questions such as "Must nurses always obey doctors?"¹³. Some texts in practical ethics clearly overlap with moral theory: for example, Singer makes explicit appeal to utilitarianism in determining answers to the specific problems of abortion and animal rights. Other texts touch remotely if at all upon moral theory, for example, Chadwick and Tadd appeal directly to case study analysis in providing answers rather than moral theory.

(ii) Nursing Opinion and Practice

The data gathered from the empirical survey of nursing opinion and working practice presented the second major source of material for philosophical analysis. The two key methodological questions here (as I noted above, p.xii) were, first, how to conduct the survey, and, second, how to embed the data gathered therefrom within the main body of the research. I shall deal with the first of these questions in a separate more extensive section below, so here I shall comment briefly upon the second issue.

In section I (B) "Progress and Development", I noted that it was unusual for a piece of philosophical research to involve an extensive survey of professional opinion and working practice. This, I suggested, offers a good opportunity to add something constructive to the debate on professional ethics. However, it also raises the difficult question of how to incorporate such data into a specifically philosophical ethical analysis. Central to the difficulty is the fact that philosophers are not in the game of merely reflecting common opinion about what individuals actually think and do, but are concerned to investigate what individuals *ought* ethically to think and do. In some cases this level of abstraction from actual belief and practice has led to an unacceptable attitude of contempt for common opinion (perhaps government house

utilitarianism provides a good example), and no doubt it has also led to some philosophers defending implausible moral positions as a result of privileging philosophical dogma over the voice of common-sense. However, it is certainly an important truth that if philosophy is to contribute anything worthwhile to professional ethics (and ethics generally) it must provide some form of *critical activity* through which commonly accepted moral principles, values, and actions can be challenged and assessed. My guiding concern, then, has been to avoid being ensnared by either of two polarised positions: that of merely reflecting professional opinion at the expense of critical philosophical analysis, or, consistently privileging the theoretical "wisdom" of philosophers over the practical experience of practitioners. This has certainly proved to be no easy task, and may ultimately be impossible due to the very nature of the on-going dynamic of critical moral reflection. However, throughout the production of this thesis I have tested a variety of approaches and settled for one which I believe represents a genuine attempt to synthesise professional and philosophical perspectives, and which has enabled the arguments of the thesis to be developed in the most fluent manner.

Initially I proposed to write a separate chapter (or chapters) on nursing ethics; comprehensively laying out the results of the empirical survey from which I intended to identify and discuss the substantive issues raised in the nursing profession. I then intended to analyse these in the light of competing ethical theories in later chapters. However, the results of attempting this proved to be unsatisfactory in two particular ways. First, it took up an inordinate amount of space. In writing up a chapter which was both genuinely comprehensive and coherent I had to discuss issues that would not have any real relevance for the fundamental theoretical concerns of the later chapters. It became clear, then, that I needed to be more selective in the material I chose from the survey. Second, and connectedly, writing up the chapter in this way had the effect of making the thesis resemble a typical applied ethics textbook with quite distinct sections on ethical theory and practical ethics. While this might be acceptable for a

textbook, it created a feeling of discontinuity between the theoretical and the practical which is precisely what I wished to avoid in this research. Thus, it became clear that I needed to incorporate the empirical research much more intimately into the philosophical analysis.

The obvious solution to both of these problems was to scrap the idea of writing a separate chapter on nursing ethics and begin immediately with laying out the important theoretical issues that had arisen from the empirical survey and the philosophical analysis of the literature. Then, wherever relevant, aspects of the empirical research (extracts from interviews, etc) could be incorporated into the text to illustrate the philosophical points being made. One result of this, however, is that the opinions of professionals play a less explicit or overt role in the text of the thesis. Nonetheless, I hope it will be apparent throughout, that at *all* times the arguments raised and addressed in the research have been significantly (if implicitly) influenced and informed by the survey of professional opinion and working practice. The overall effect, in my view, has been far more satisfactory; enabling a fluent integration of the practical and theoretical issues that are of most relevance to the objectives of the thesis.

Accordingly, in the next section I shall concentrate on describing the social research methods used in gathering the empirical data from the nursing profession and give a brief account of its progress and development. The substantive issues raised therein will be dealt with in the philosophical analysis of the subsequent chapters.

(B) The Empirical Survey of the Recognition of the Ethical in the Nursing Profession¹⁴

The empirical survey progressed in five distinct phases, which, in some cases, were not so much planned as forced upon me by a combination of inexperience and the

natural pattern that developed in the on-going process of research. Phase one consisted of an orienting period where I sought to establish the nature of the ethical structures I needed to investigate and the choice of social research methods most appropriate to them. Phase two consisted of the initial process of surveying the nursing profession (and business management). Phase three consisted of the collation and analysis of the data gathered from nursing. It was decided at this stage that the research would benefit from a second empirical survey (for reasons I discuss below). Phase four consisted of the second survey of the nursing profession. Phase five consisted of the collation and analysis of the data gathered in the second survey, and its subsequent incorporation into the text of the thesis.

(i) Phase one

Before any formal surveying of professional opinion and practices could be usefully conducted it was important to identify what sort of structures for the recognition of the ethical existed within the nursing profession. In an initial orienting period I gained an overview of the most important issues raised in the literature (books and journals), and contacted a variety of institutions and organisations which impact upon the profession of nursing in order to seek their opinions on what they considered to be the most important issues in nursing ethics (for example: local hospitals, local health authorities, the Royal College of Nursing, the Queen's Nursing Institute, Good Practices in Mental Health, the Registered Nursing Homes Association, the General Medical Council, the Patient's Association, etc.) Accordingly three general areas were singled out as requiring intensive research: (a) the extant literature on nursing ethics - this included books, journals and articles written by academics and working professionals. (b) The formal provision for ethics that is made within the professional organisational structure: this included three main areas; education and training, codes of conduct (their provision and implementation), and ethics committees (within hospitals and the profession). (c) The opinions and working practices of individual professionals: this included both the explicit expression of

ethical views and values, and the implicitly embodied views and values displayed in behaviour.

Once these categories were identified it was possible to consider which social research methods would be most appropriate. As regards the literature on nursing ethics the most obvious method of research was the same philosophical analysis running through the text of the thesis (although informal discussions with some authors have also been useful here). However, the other two areas of research required more specific methods of enquiry which included the following: (a) questionnaires (see appendix I(a) and I(b)), (b) focused interviews, (c) written reports (see appendix I(c)), (d) observation. Questionnaires were selected as offering the best opportunity to gain a wide sample of opinion from among nurses. Focused interviews were selected in order to gain a more in-depth opinion from a smaller sample of nurses. This, of course, would also give me an opportunity to explore the reasons and motives lying behind an individual's opinions, and develop lines of enquiry that were unanticipated¹⁵. Written reports were selected in order to offer the opportunity for nurses nationally to contribute evidence of particular (ethical) experiences. All the major nursing journals were contacted (for example: Nursing Times, British Journal of Nursing, Nursing Standard, Professional Nurse etc.) and asked to publish an invitation to their readers to write to me and describe any moral dilemmas they have personally encountered. Observation techniques were selected in order to witness for myself the ways in which the ethical is incorporated into actual day-to-day professional practice.

(ii) Phase two

The prospect of gathering of a significant amount of data from the nursing profession was helped enormously by the fact that the University of Wolverhampton runs a popular degree course in health care (nursing). The course is attended by a variety of nurses, midwives, and health visitors, ranging significantly in age and cultural

background. Typically the nurses were in full-time employment and completed the course on a day-release basis. It was not difficult gaining co-operation from this group of individuals who were clearly interested in reflecting upon and developing their professional career. Accordingly, they formed the bulk of the individuals surveyed.

The initial survey period took me up to and just beyond the production of the transfer document from Mphil to PhD. At the end of the period of the survey I had gathered the following data:

- (a) Questionnaires - 232 (28 from the private sector)
- (b) Focused interviews - 39 (6 from the private sector)
- (c) Written reports - 13
- (d) Observations - 15 (11 formal ethics training sessions, 2 hospital ethics committees, 2 shadowing a nurse on-the-ward)

(iii) Phase three

Phase three involved the collation and analysis of the data gathered in phase two, and an assessment of how and where to develop the research from there. I shall leave the results of the philosophical analysis of the data to manifest itself in the main text of the thesis. Accordingly, I shall restrict myself here to commenting upon the important methodological issues that arose. On the whole I was happy with the initial empirical survey; however, there were three particular areas that I felt needed to be addressed, requiring a further period of surveying.

The most important issue related to the decision to scrap the survey among business management (explained above). This meant that I needed to increase the amount of data collected from nurses working in the private sector in order to see whether the recognition of the ethical differed between public sector and private sector contexts. First, I decided to conduct more interviews with private sector nurses; second, I

decided to distribute an amended questionnaire which included one extra question relating to the private sector context (see appendix I(b)).

The second issue which needed to be addressed concerned the lack of questions in the questionnaire about the extent to which a nurse personally *identified* with her role as a nurse, and the extent to which this influences her ethical decision making. It became clear in the interviews that many nurses did indeed significantly identify with their professional role and that this was a very important factor in the way they recognised the ethical in their professional life (chapter 4 discusses the importance of this issue at length). Accordingly one extra question on this issue was included in the amended questionnaire (see appendix I(b)).

The third issue which arose from the initial survey concerned my own ability to conduct the interviews in an unbiased fashion. In analysing the tape-recordings it became clear that in 14 of the interviews I had allowed my own ethical opinions to influence the answers of the interviewee. It became important to ensure that future interviews were conducted in a non-leading manner (as I hope will be apparent in the excerpts taken from the interviews dispersed through the main text).

(iv) Phase four

The following data were gathered from the second phase of empirical surveying:

- (a) Questionnaires - 137 (46 from the private sector)
- (b) Focused interviews - 29 (19 from the private sector)
- (c) Written reports - 1
- (d) Observations - 3 (3 shadowing a nurse on-the- ward, including 1 from the private sector)

I was happy that the second empirical survey was successful in addressing all three problems identified with the first survey.

(v) Phase five

Phase five concluded the surveying by collating and analysing the data gathered in both phases of empirical research. Combined together the data of both constituted a substantial empirical basis for the research. The final figures were:

- (a) Questionnaires- 369 (74 from the private sector);
- (b) Interviews - 54 (24 from the private sector)¹⁶;
- (c) Written reports - 14;
- (d) Observations - 18 (11 formal ethics training sessions, 2 hospital ethics committees, 5 shadowing a nurse on-the-ward, including 1 from the private sector).

I have already discussed in section II(a) (above) the ways in which the empirical data have come to be incorporated into the main body of the thesis. Accordingly, I shall conclude this section on methodology with a few remarks about the usefulness of each method. The least useful method turned out to be the written reports. There were two reasons for this: first, they were few in number, second, they varied in quality of detail and expression. Having said that, some were very informative and I include two examples in appendix I(c). The questionnaires proved useful in a number of ways. In particular, they enabled me to get a good general picture of nursing attitudes to key ethical questions which I was able to pursue in far more detail in the interviews (I frequently used an individual's answers to the questionnaire to structure the focused interview with her). The interviews proved to be the most useful methodology. First, they enabled me to gain a very in-depth understanding of the reasons and motives why nurses hold particular ethical opinions. Second, and most importantly of all, they provided me with the opportunity to understand how nurses typically get a *grasp* on ethical issues, and the *ways* in which they engage in ethical *reasoning*. Taking extracts from the interviews also proved to be the most fluent and

constructive means to incorporate empirical evidence into the text of the thesis. Similarly, observations also proved to be a very useful methodology (although there were fewer of these). The most informative observations involved shadowing a nurse on-the-ward as she conducted her daily tasks. This enabled me to assess the extent to which actual behaviour embodied explicit and implicit ethical values. The overall combination of questionnaires, interviews, and observations ensured a very thorough empirical of the picture of the recognition of the ethical in the nursing profession.

Without a doubt the most important effect the empirical research had on this thesis was to direct its theoretical concerns in quite specific ways. First, it confirmed the general point, which is perhaps obvious to professionals but not always so obvious to philosophers: that ethics must first and foremost concentrate on the question of *how ethical considerations feed into practical decision making*. This, in effect, constitutes the general question I seek to answer in this thesis. Second, it narrowed the focus of this general question, when taken in the context of professional decision making, upon two key issues: namely, (1) the *nature and function of ethical principles and rules*, and (2) the *ethical implications that follow from filling a professional role*.

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III
Overview of the Arguments

(i) Chapter 1: Professional Ethics

This chapter divides into two sections. Section I is quite different from any other part of the thesis in that it deals with concerns that are sociological rather than philosophical. There is a very good reason for this: the findings of the empirical survey and theoretical analysis of this thesis argue fundamentally that acting in a *professional role* has crucial consequences for the nature of ethical reasoning; however, the vast majority of recent sociology is very sceptical of the very idea of a

profession. Many sociologists argue that there are no genuine grounds which support a distinction between occupations in terms of the concept of a profession (other than that certain occupations have somehow come to monopolise and control certain areas of working life). More: they then go on to argue that the avowed concern with ethics which "professions" claim is nothing other than an attempt to serve their own self-interests by deluding the general public that their aims are altruistic and guided by high moral values. Now, my argument is not that professionals always pursue altruistic ends but rather that there is something *structurally* significant about professional contexts that has *distinctive* implications for the nature of ethical reasoning. Thus I considered it quite important at this initial stage in the thesis to at least *blunt* the arguments of sceptical sociologists. Accordingly, I do not intend the arguments of the first section as a knock-down refutation of these sociological claims, rather I intend them to hold these sociologists at bay in order to pursue my arguments to the contrary throughout the rest of the thesis. I should perhaps note here (in a spirit of honesty becoming of a thesis in ethics) that even I myself find the arguments of this first section somewhat turgid: this is probably the result of my interests lying with philosophy and not sociology, with the result that I have undoubtedly made the sociological arguments appear a lot less interesting than they really are. I hope this is at least understandable if not entirely forgivable.

Section II begins the philosophical enterprise. Here I outline two general accounts of what makes professional ethics a distinctive area of ethics meriting consideration in its own right. As Bernard Williams has argued, what gives the idea of professional ethics any content is the idea that it *diverges* from ordinary morality (see pp.30-32), often requiring professionals to do things that would otherwise be unacceptable or develop certain dispositions of character otherwise undesirable. The two general accounts of what makes professional ethics distinctive are really accounts of what *explains* and *justifies* this divergence. On one account, which I label the "Deductive Paradigm", professional ethics is regarded as a *specific adaptation* of

general/ordinary morality. This claims that professionals are bound by *exactly* the *same* universal principles, rules, and values as ordinary citizens; it just happens to be a contingent feature of professional contexts that when those principles, rules, and values are *applied* therein they often legitimate actions that would be unacceptable in non-professional contexts. The other account, which I label the "Contextualist Conception" *denies* that the divergence of professional ethics can be accounted for as a specific adaptation of general/ordinary morality. It accepts that professional ethics can be justified *within* ordinary morality but rejects the idea that this involves appeal to universal principles, rules, and values. On this account professional ethics forms an independent part of morality fundamentally *non-deducible* from the general principles of ordinary morality. This latter account, then, represents a more radical account of the divergence of professional ethics from general/ordinary morality.

(ii) Chapter 2: Ethical Theory: Moral Theory and Contextualism

This chapter divides into two sections. In section I the aim is to provide an in-depth account of the nature of ethical theory and its relation to applied ethics. I begin by providing a very general description of the meta-ethical and normative elements that any ethical theory must contain. Then I distinguish between two styles of ethical theory: one I label "*The Moral Theory Approach*" and the other "*Contextualism*". These, I claim, lead to *radically different conceptions of the nature of applied ethics* (and hence professional ethics). The Moral Theory Approach contains four elements: (moral) intuitions, meta-ethics, moral theory, and, practical ethics. The process of theorising moves from the meta-ethical analysis of "common-sense" intuitions, to the *production of moral theory*, and then the *application of moral theory* to practical ethical problems. Contextualism by contrast moves from the meta-ethical analysis of "common-sense" intuitions, to an *account of the good*, which gets expressed in practical ethics. *The absolutely crucial difference between the two approaches centres, then, upon what meta-ethical analysis of intuitions implies about how we should go on to resolve practical ethical problems.* The Moral Theory Approach

claims that it requires the development of a moral theory, Contextualism rejects moral theory in favour of an account of the good. I make it clear at this stage that the expression "*Moral Theory*" is being used in a very specific way to denote a constituent part of *ethical theory* - a sub-theory which *consists of a set of universal principles and general axioms which justify or entail a systematic set of rules or duties from which particular moral judgements are deduced*. (From here onwards I use the capitalised term "Moral Theory" to prevent confusion with the use of "moral theory" as a synonym for ethical theory). Contextualists deny that any such set of universal principles and rules can be abstracted from the meta-ethical analysis of moral intuitions. Instead, they argue that some account of what constitutes a good life to lead is explicitly or implicitly *embodied* within practice. For the contextualist, then, there is no role for a deductive application of any sort of theory in resolving moral problems. Having described these two styles of ethical theory I discuss a representative example of each approach (Henry Sidgwick for The Moral Theory Approach, and Aristotle for Contextualism). I note that in dividing theorists at the level of ethical theory I am grouping together individuals who are regarded as opponents at the level of Moral Theory (for example: Kantians and utilitarians both fall under The Moral Theory Approach). *A crucial conclusion from this is that what divides Moral Theorists is less important for applied ethics than what unites them in regard to the fundamental presuppositions of The Moral Theory Approach.*

From this point I seek to establish the ground upon which I intend to compare the two approaches. In this light I identify one fundamental issue for which any ethical theory must provide a plausible account: namely, *what is involved in reasoning from the moral-point-of-view*. I note that this must incorporate *first-person* and *third-person* perspectives. The first-person perspective recognises that any particular piece of moral reasoning is always the reasoning of some particular individual, which must *motivate* her as such. The third-person perspective recognises that any particular piece of moral reasoning must also reflect considerations that *transcend* the merely

personal concerns of the individual concerned. Accordingly, I identify what I describe as the "Basic Question" for Applied Ethical Theory: *How can a stretch of practical reasoning incorporate the fact that it needs to reflect reasoning that is specifically mine (and motivate me as such) yet at the same time reflect standards that transcend my own specific concerns?*

In section II I become partisan and lay out the basis for a rejection of The Moral Theory Approach. Accordingly, I lay out two core principles and two presuppositions of the Moral Theory Approach which I intend to attack at length in the two chapters that follow. The two core principles are: (a) the principle of universalizability, and, (b) the principle of impartiality. The two core presuppositions are: (c) commitment to a rationalistic procedure in moral argument, and, (b) prioritisation of conceptions of what it is right to do over conceptions of what it is good to be.

(iii) Chapter 3: Universalizability: Principles, Rules, and Codes of Conduct

This chapter divides into two sections. In section I, I begin by defining the principle of universalizability as the requirement that *any particular principle or rule that one adopts could or should be a principle or rule that anyone in relevantly similar circumstances could or should adopt*. I then describe the principle as it is utilised in three different Moral Theories (Kant, Hare, and discourse ethics) in order to show that it forms a fundamental principle of any Moral Theory. During this discussion I seek to show two other important things. First, that the principle serves as the primary principle of *justification* for more particular principles, rules, and values which are supposed to be tested against it. Second, that this leads to a *rationalistic* approach to moral argument.

Section II focuses the issues raised in the first section (and the previous chapter) concerning the form of moral justification and the rationalistic procedure in argumentation that result from adoption of the principle of universalizability upon the

more specific issues concerning the nature and function of codes of professional ethics/conduct. I seek to show that The Moral Theory Approach to codes of professional ethics/conduct demands two things: first, that the principles, rules, and values embodied in the code can be *justified* in the light of some form of universalistic Moral Theory (I label this "the problem of justification"). Second, that the principles, rules, and values embodied in a code can be *explicitly stated* so as to provide clear *guidance* to *anyone* who is covered by it (I label this "the problem of codifiability"). Making use of the data gathered from the empirical survey of nursing, and theoretical arguments produced by philosophers (in particular: Wittgenstein and MacIntyre) I seek to show that the demands upon codes made by Moral Theorists are neither justified nor possible to fulfil. As regards justification: I argue that the idea that codes need to be justified by appeal to universal principles is founded upon a mistaken Moral Theory *dogma* that unless codes can be justified in this way they must represent nothing more than the parochial prejudices of professional organisations. In contrast I outline the *narrative* structure of a contextualist justification of professional codes which situates the process firmly within the *dialogical practices* of a profession, and of society generally. As regards the problem of codifiability: I argue that it is *impossible to understand a principle or rule separately from practice*. Drawing on the seminal work of Wittgenstein, as well as examples from the empirical survey of nursing, I demonstrate that moral rules *cannot* be *specified* in advance of their application in a way that can *guide* what should be done in some specific case. Rules gain their application *within* practice in the light of *judgements* made by individuals concerning the *goods* at stake in following the rule one way or another in some particular case. Accordingly, I conclude that codes of professional ethics/conduct cannot be understood in the terms of Moral Theory. Instead, I argue that codes should be understood narratively, that the principles and rules they contain should be seen as (partial) specifications of the central goods pursued within a profession, in terms of which any particular action can be justified. This, of course,

demands a non-rationalistic reading of codes and a concentration upon questions concerning the good rather than the right.

(iv) Chapter 4: Impartiality: The Self, and Professional Roles

In this chapter I argue that Moral Theorists are committed to a sharp distinction between personal and impersonal reasons for action, in the process aligning morality with those reasons that are purely impersonal. Accordingly I focus on two questions: first, whether it is actually possible for an agent to reason morally from a purely impartial perspective (as the principle of impartiality demands). Second, and more importantly, I consider whether it is actually necessary to do so. In regards to the first question I raise serious doubts that adopting a purely impartial position is possible. I argue that it creates an implausible split in an individual's practical reasoning between what I describe as her "moral agency" and the agency of her "narrative self". The narrative self has a life history characterised by *attachments* to a whole variety of *particular* individuals and *personal* projects that, indeed, give a particular life its meaning and purpose; however, if moral agency is aligned with impartiality then any particular agent must abstract from the concerns of her narrative self when she engages in moral reasoning. This *seems to make an answer to the Basic Question (see above) unachievable as it locates morality solely in the realm of third-personal considerations in abstraction from any grounds in first-personal motivation.*

However, I recognise that, although this appears to me to count overwhelmingly against adoption of the principle of impartiality, it is unlikely to be seen as a knock-down argument against the die-hard Moral Theorist. Accordingly I move quickly onto the second line of attack and challenge whether moral reasons have to be impartial in the first place. Here, my strategy is to show that there is a type of reason which clearly should count as moral but is also clearly *not* derived from an impartial/impersonal perspective. The type of reason I identify is one which relates to

the reasoning of an agent in the capacity of occupying a professional role. I argue that when an individual initially takes on a (professional) role she agrees to take on a set of obligations to act in ways that have been *impersonally* established. So far she may not regard those obligations in any other way than as objectives or considerations that are *instrumental* to her getting paid for her job. However, a very important phenomenon that was widely apparent from the empirical survey of nursing was that the typical nurse develops a relation to her professional role that becomes what I call "*identity-conferring*" or "*vocational*". The nurse who relates to her role vocationally sees herself not merely as an instrument in realising the goals of certain pre-specified tasks but in an important sense also realises herself in and through performing the tasks she carries out. That is: she moves beyond a merely instrumental attitude to her role and *absorbs the role into the motivational set of her narrative self*. She identifies with her professional role to a significant extent such that the reasons *she* has for acting in certain ways are *not* merely the reasons *any* nurse has for acting similarly but are now perceived as fundamentally *her own reasons* for acting because of *the nurse that she is*. Reasons understood in this way are neither purely impersonal nor purely personal. They are not purely personal because being attached to a socially defined role means they are not subject to mere personal preference (nor are they seen by nurses as a matter of expressing purely personal preferences). However, they are not purely impersonal either because the nurse identifies them as *her* reason to act. I claim that this type of reason represents the predominant sort of *moral* reason used by nurses in their ethical thinking. I demonstrate this by focusing on the fundamental issue of care (caring) in a nursing context.

I distinguish between two general models of caring; task oriented caring and patient oriented caring. Task oriented caring reduces caring to a set of discrete formally specified tasks (changing bandages, drips etc.). These can be described *impersonally* and represent the duties that any nurse is *obligated* to carry out. Patient oriented caring involves a holistic notion of care. It identifies the *person* as a whole as the

object (subject) of care and elevates the *particular care relationship* between the individual nurse and the individual patient to a primary (moral) position. I provide several examples taken from the empirical survey of nurses to demonstrate that patient oriented caring is the dominant form of caring in nursing practice. I then argue that patient oriented caring is an example of caring that is neither purely personal nor purely impersonal. It is not purely personal because the nurse recognises that she cares *as* a nurse (and not say as a friend). However, it is not purely impersonal because she cares as the nurse that she *is*. I note that this can only be explained in terms of the notion of role absorption (discussed above). I argue further that the discussion of caring confirms how the type of reasons I have identified as stemming from identity-conferring roles resolve the Basic Question. They satisfy the first-personal condition that a reason must motivate an individual to act, and the third-personal condition that moral reasons must reflect standards that transcend merely personal opinion. Finally, I defend the notion of identity-conferring roles against possible objections, and conclude that the principle of impartiality can be rejected without collapsing morality into merely personal opinion.

(v) Conclusion

I conclude very briefly that I have provided substantial reasons why The Moral Theory Approach to professional ethics should be rejected in favour of a contextualist alternative. I note that this should re-focus professional morality away from the preoccupation with specifying base-line duties to a concern with promoting professional *ethical excellence*. This I claim can only be secured if the professions themselves promote a healthy on-going dialogue within their practices by providing the necessary structures and impetus to support genuine critical reflection.

¹ See: JP DeMarco and RM Fox (eds), 1986, **New Directions in Ethics: The challenge of Applied Ethics**, London, Routledge and Kegan Paul, pp.1-18.

² See for example: S Toulmin, "How Medicine Saved the Life of Ethics", in JP DeMarco and RM Fox (eds), *ibid*, pp.265-81. ER Winkler, "From Kantianism to Contextualism: The Rise and Fall of the Paradigm Theory in Bioethics", in ER Winkler and JR Coombs (eds), 1993, **Applied Ethics: A Reader**, Oxford, Blackwell, pp.343-65.

³ See for example: TL Beauchamp and JF Childress, 1994 (fourth edition), **Principles of Biomedical Ethics**, Oxford, Oxford University Press.

⁴ See: A MacIntyre, "Does Applied Ethics Rest on a Mistake?", 1984, *The Monist*, Vol.67, pp.498-513.

⁵ This is a view that was consistently expressed by the professionals interviewed for this thesis.

⁶ For some major proponents of this view see, for example: L Blum, 1994, **Moral Perception and Moral Particularity**, Cambridge, Cambridge University Press. J Dancy, 1993, **Moral Reasons**, Oxford, Blackwell. J McDowell, "Virtue and Reason", 1979, *The Monist*, Vol.62, pp.331-50. A MacIntyre, "Does Applied Ethics Rest on a Mistake", 1984, *The Monist*, Vol.67, pp.498-513. C Taylor, 1989, **Sources of the Self**, Cambridge, Cambridge University Press. B Williams, 1985, **Ethics and the Limits of Philosophy**, London, Fontana.

⁷ For example: Norman Bowie ("Empowering People as an End for Business", in G Endelerle, B Almond, and A Argandona (eds), 1990, **People in Corporations**, Dordrecht, Kluwer Academic Press) argues that businesses need to adopt the "professional service model", that to ensure quality management businesses "... must assist employees in perceiving themselves as professionals." (p.108). He is supported by Paul Comenisch ("Business Ethics: On getting to the Heart of the Matter.", 1981, *Business and Professional Ethics Journal*, Vol.1, No.1) who argues that the right approach to business ethics is to parallel that taken in professional ethics which begins from the question about, "... what the professions are and claim to be in relation to the larger society." (p.61).

⁸ See for example: AJ Ayer, 1967, **Language, Truth and Logic**, London, Victor Gollancz. CL Stevenson, 1944, **Ethics and Language**, New Haven, Yale University Press. JO Urmson, 1968, **The Emotive Theory of Ethics**, New York, Oxford University Press.

⁹ See for example: A MacIntyre, 1967, **A Short History of Ethics**, London, Routledge and Kegan Paul. B Williams, 1985, **Ethics and the Limits of Philosophy**, London, Fontana.

¹⁰ A MacIntyre, 1981, **After Virtue**, London, Duckworth. C Taylor, 1989, **Sources of the Self**, Cambridge, Cambridge University Press. B Williams, 1985, **Ethics and the Limits of Philosophy**, London, Fontana.

¹¹ J Habermas, 1989, **Moral Consciousness and Communicative Action**, Cambridge Mass. MIT Press. I Kant, 1785, **Groundwork of the Metaphysics of Morals**, translated by HJ Paton, 1981, **The Moral Law**, London, Hutchinson. JS Mill, 1962, **Utilitarianism**, London, Fontana. H Sidgwick, 1962 (7th edition), **The Methods of Ethics**, London, Macmillan.

¹² P Singer, 1979, **Practical Ethics**, Cambridge, Cambridge University Press.

¹³ R Chadwick and W Tadd, 1992, **Ethics and Nursing Practice: A case study approach**, London, Macmillan.

¹⁴ All the nurses surveyed in this research are qualified nurses registered by the United Kingdom Central Council for Nurses, Midwives and Health Visitors.

¹⁵ See for example: LH Kidder and CM Judd, 1986 (fifth edition), **Research Methods in Social Relations**, Tokyo, CBS Publishing.

¹⁶ This figure is arrived at after removal of the 14 suspect interviews (mentioned above).

CHAPTER 1

PROFESSIONAL ETHICS

"We trust our health to the physician; our fortune and sometimes our life and reputation to the lawyer and attorney. Such confidence could not safely be reposed in people of a very mean or low condition. Their reward must be such, therefore, as may give them that rank in society which so important a trust requires."
(Adam Smith, *Wealth of Nations*)

"All Professions are conspiracies against the laity"
(George Bernard Shaw, *The Doctor's Dilemma*)

Question: Should athletics come clean and be openly professional?
Answer: No, I don't believe the sport would benefit from being professional,
there are too many crooks in it already.
(Interview with Colin Jackson (Olympic medalist), *Observer Magazine*)

Introduction

One of the most striking features about the recent literature analysing the concept of a profession is the large extent to which it is sceptical and suspicious of that very notion. From scepticism about the prospect of providing a clear definition of the concept, theorists have typically moved to suspicion about the social, political and economic motives that drive occupations to achieve and preserve professional status in the first place. Groups as diverse as Marxists, feminists, and the new right (among others), accuse occupations of adopting the ideology of "professionalism" in order to disguise pursuit of their own self-interest as altruistic service for the public good¹. The professions, they argue, seek to monopolise services in crucial areas of human life, and their claims that they possess a specialised expertise guided by a commitment to ethical principles and values serve to placate the qualms of clients (and society generally) that the power the professions gain may be abused. As a consequence many theorists see the heightened concern with ethics, considered to be a hallmark of a profession, as largely a strategic device to gain and maintain a position of high social status and power:

"Making claims over the right to control occupational entry through qualifications, *the use of ethical codes in regulating conduct* in practice, the definition of practice standards, and so on, are thus seen as *specific tactics within broader strategies for gaining and maintaining autonomy...*"

(R Hugman "Social Work and De-professionalization" in P Abbott and L Meerabeau (eds) 1998 (second edition), *The Sociology of the Caring Professions*, London, UCL Press, pp181-2: (my italics))

Were this sort of "sociology of suspicion" directed at the very idea of a profession sound "professional ethics" might be dismissed as little more than a manipulative enterprise intended to dupe the general public into allowing certain occupational groups unwarranted power. First, it might be argued, the term "profession" does not denote any naturally occurring category of occupations that distinguishes it from "non-professional" occupations. It would follow, secondly, that there is no special category of "professional ethics" (because there is no special category of "profession"). Thus, not only does "professional ethics" fail to refer to anything real, but it can only be an artifice designed to serve the manipulative and acquisitive interests of certain powerful groups of people out to protect their own interests. However, in what follows in this chapter (and indeed throughout the thesis) I shall attempt to rebut such claims. In doing so I shall not make the naive claim that there is no room for *healthy* scepticism and suspicion about professional ethics (*healthy* scepticism and *healthy* suspicion are, I would argue, preconditions of any genuinely critical ethical activity), rather I shall claim that a large-scale *cynical* scepticism and suspicion of professional ethics is theoretically and practically unjustified.

Accordingly my immediate concern in this chapter will be to identify what it is that the term "professional ethics" denotes. In the course of doing that I hope to explain why professional ethics is a special area of ethics that merits systematic consideration in its own right. The task has two parts. First, I will attempt to develop a working definition of the concept of a profession wherein my major concern will be to answer those sceptics who claim there is no genuine substantive distinction to be made between occupations by reference to this category. Secondly, I shall attempt to show that the distinctiveness of professional practice

explains why there is a distinctive focus upon ethical values and responsibilities in professional life, supporting Kenneth Prandy's claim that ethics is "the very essence of professionalism"². In the process I hope to allay those critics who are suspicious of the very idea of professional ethics and of the motives lying behind the claim that professionals are guided by a heightened concern with moral values. In fulfilling both of these tasks I will hope to show why professional ethics involves types of ethical considerations that do not apply to other occupational forms, or to life generally.

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I
The Concept of a Profession

There are in essence two main sources for the definition of a profession, non-academic (lay persons and the professions themselves) and academic. Naturally it is largely with the work of academics that I shall be concerned here although I shall discuss very briefly some of the lay persons' usage as it naturally resonates in the definitions of the theorists. Academic discussion of the concept of a profession has almost exclusively been the domain of sociologists and a vast literature on the topic has accumulated. Perhaps the most notable thing about that literature, however, is the extent to which it has seemingly proved impossible to arrive at a definition upon which there is universal agreement. In essence there appear to be three interrelated reasons why this is so. First, there seems to be a considerable amount of disagreement over just what sort of concept the concept of a profession is supposed to be and hence what it is supposed to be used for. As a result there is a tendency in the literature to become entangled in the ambiguities that result in developing and using the concept in quite different ways (for example, as an "ideal-type" and as a "descriptive-type", see below, pp.13-14). Secondly, there is disagreement about just what sort of methodology is appropriate in defining the concept. For example, some have approached the problem from a functionalist perspective, describing a list of traits or elements (such as knowledge, skill, ethical values, social importance, et cetera) which an

occupation must possess in order to be considered a profession³, while others have eschewed this approach and suggest instead that one should focus on the ideological motives and political institutional processes by which an occupation achieves for itself professional (autonomous) status⁴. Thirdly, there is disagreement about which particular occupations should be included under the concept of a profession⁵. This largely reflects how disagreement over definition and methodology results in disagreement over what is to be included under the category of a profession.

What all these points demonstrate is that there is a great deal of ambiguity in the use of the term "profession" (and the related terms, "professional", "professionalism" et cetera) which raises the question whether commentators are actually talking about the same thing when they haggle over the definition of the term, or, indeed, whether there is anything there in the first place to which the term genuinely refers.

Unsurprisingly this has led some to embrace a sceptical attitude to the very idea of defining the concept. However, such scepticism is unjustified for a number of reasons, both general and specific. The most important general reason is that such scepticism rests on a presupposition - which happens to be false - according to which to know anything about x (whatever x is) one must be able to provide a precise and indisputable definition of x. The best candidates for such definitions would be so-called analytic truths such as "all bachelors are unmarried men" (i.e. truths which are true by definition⁶). However, genuinely informative definitions not made true merely by fiat are always open to revision and dispute and it cannot be demanded of them that they fix beyond doubt precisely what it is to which they refer (to make such a demand is to fall prey to the Socratic fallacy). Indeed, any useful concept utilised in the human sciences is fundamentally indefinable in the sense that it cannot be formulated in a way which fixes beyond dispute a precise meaning and application. For it is clear that theoretical analysis can and does proceed under conditions which involve an inevitable element of indeterminacy in definition of concepts. Any plausible picture of the process of theorising recognises that the development of a definition

of the concept concerned and an understanding of its theoretical and practical implications proceeds in symbiotic fashion, or in the manner of a hermeneutical circle. One should only resort to scepticism if it can be demonstrated that this process results either in the eventual undermining of the concept (in a sort of *reductio ad absurdum*), or that the resulting literature contains nothing of any real merit in furthering an understanding of the concept, or that it turns out to have no real reference to anything theoretical or practical. Now, while it is clear that there is important disagreement about the concept of a profession among theorists, what is also clear, I would argue, is that the discussion that has taken place in the literature largely does not fall prey to any of the three criticisms identified in the previous sentence. In what follows in this section I shall attempt to show more specific reasons why the disagreements among sociologists should not lead to a sceptical viewpoint by showing: first, that we can and do identify a stratum of the labour force which we recognise as being engaged in occupations which are in significant respects different from other occupations (and for which we reserve the label "profession"), and secondly, that the disagreements among sociologists can be articulated in a way that brings to light the ambiguities in meaning and usage of the terminology which, while not providing a solution to those disagreements, is nonetheless an activity which furthers our understanding of the concept and its use in specific contexts. I shall attempt, then, to identify the different usages of the concept "profession" (and "professional", et cetera) and identify the central criteria upon which such usages are predicated.

(i) Non-academic Definitions

Undoubtedly the best source of non-academic usages and definitions of the concept of a profession is the Oxford English Dictionary (O.E.D). The briefest of surveys of the O.E.D instantly reveals that the word "profession" (and the words that stem from it like, "professional" and "professionalism" et cetera) includes a very wide range of references and uses which overlap and diverge in an irreducibly complex fashion. I do not intend to

discuss all those definitions and uses but rather wish to select those that are significant for academic definitions of the term.

Roughly speaking the uses of the term can be split into two groups: those which refer to an act of professing, and those which refer in some way to an occupational context.

(i.a) The act of professing

The use of the term "profession" to refer to an act of professing has a much older history than its use to describe certain occupations. The very first recorded use of the term in this sense cited in the Oxford English Dictionary (O.E.D) can be traced to the twelfth century:

"The declaration, promise, or vow made by one entering a religious order; hence, the action of entering such an order; the fact of being professed in a religious order."

In its origin, then, the term "profession" was identified specifically with a religious act of professing which involved dedicating oneself to the ends of some particular order of divinity. Given the largely unquestioned acceptance of the works of the church as moral this usage of "profession" contains an unambiguously positive assessment of the act of professing. By 1362 the identification of the term with a specifically religious act of avowal had been altered to include, "Any solemn declaration, promise or vow." (O.E.D). And by 1526:

"The action of declaring, acknowledging, or avowing an opinion, belief, intention, practice etc.; declaration, avowal. In later use often with implied contrast to practice or fact." (O.E.D).

By the sixteenth century, then, the meaning of the word had become secularised and included a hint of ambiguity with the possibility that an act of profession can be an act of deception.

Use of the word "profession" to describe an act of professing, however, has received minimal attention from modern day academics who have focused almost exclusively on the

use of the word to describe certain sorts of occupation. However, as shall become clear later in this thesis, focusing on the *act* of profession is crucial in understanding how the ethical can be fully recognised and incorporated into professional life. In short, the act of professing has a clear link with the notion that individuals *ethically* commit themselves to the aims and standards of the profession they belong to by a pledge, oath or vow to pursue those objectives and principles⁷.

(i.b) Profession as occupation

During the sixteenth century the word "profession" first comes to be used to denote particular occupations, or *vocations*:

"A vocation in which a professed knowledge of some department of learning or science is used in its application to the affairs of others or in the practice of an art founded upon it. Applied specifically to the three learned professions of divinity, law and medicine; also to the military profession."

The O.E.D cites the following example: "1541. R. Copland, Gaylen's Terap. The parties of the art of medycyne... cannot be separated one from the other without the damage and great detryment of all the medycynall profession.". It was also in the sixteenth century that the term "profession" came to be used in a much wider sense to refer to: "Any calling or occupation by which a person habitually earns his living."

To deal with the latter usage first it should be clear that this is pretty much identical to the modern use of the term to describe any occupation that an individual is engaged in, in order to earn a living. It rests upon the general *distinction between professional and amateur*, between work which one does for *financial reward in order to earn one's living* and the work or activities one engages in where this is not a concern. This usage creates synonymy between the terms "profession" and "occupation", and reflects the sense in which we commonly use the term "profession" outside of academic discourse to identify whatever occupation it is that someone is employed (or self-employed) to do. This usage specifically

does *not* distinguish between occupations. The important thing to note about this usage, then, is quite simply that it identifies professionals as a part of the workforce or labour market, and indeed, a number of academics explicitly cite this as a requirement for professional status⁸.

Much more significant for academic debate is the first use of "profession" quoted above (p.6) which identifies a particular group of occupations (the learned professions of divinity, law and medicine) as professions in distinction from other occupations. With its reference to knowledge and learning as a basis for this distinction this definition appears to be very similar to the sort of definitions common in modern academic literature which distinguish professions from non-professions on similar cognitive grounds. However, there is a crucial difference to be aware of between pre-industrial (pre-nineteenth century), and nineteenth and twentieth century uses of cognitive criteria to distinguish professions from other occupations. In the later (academic) use cognitive criteria, where they are cited as a reason for conferring professional status, are inextricably tied to the notion of "objectively legitimised competence"⁹. In their pre-industrial use as a criterion for conferring professional status knowledge and learning did not ensure professional competence but rather indicated that the individual concerned had received a "gentlemanly education". This distinction is easy to see in the differences in the nature and functioning of the university education that is considered to be a hallmark of professional training. In the pre-industrial period the university education of the professional consisted largely in training in the classics and it was this that distinguished him from the mere craftsman or tradesman plying a similar trade, i.e. he was not necessarily more competent than the tradesman but he was what the tradesman was not, truly a gentleman, and this was the basis for his high (professional) social status¹⁰. With the advancement of the industrial revolution the university education of the professional centred upon learning and developing knowledge that specifically related to the practice concerned and involved training to ensure that the professional had the competence to practically apply that knowledge (this was guaranteed by the requirement of examination and certification). Thus, although the connection between

professional status and knowledge and a university education had been made in the sixteenth century it should be clear that the nature and understanding of this connection was radically transformed with the onset of the industrial revolution¹¹.

It is not a coincidence that academic interest in the concept of a profession arose along with the introduction and progress of industrial capitalism and its concordant reinterpretation of the nature of a profession. Now, it would be out of place here to discuss at length the connection between the rise of industrial capitalism and the rise of the modern profession, however, two relevant points can be made very briefly which highlight the source of that connection. The economic, social, technological, and ideological advances of industrial capitalism created a structural space and opportunity for particular occupations to play a specially important role in the organisation and functioning of society. The enormity and complexity of those advances in effect necessitated the rise of organisations (like the professions) in which extensive and specialised knowledge was concentrated and organised by competent individuals able to apply that knowledge effectively in a modern capitalist setting. This coupled with the ideological dominance of the protestant work ethic which enabled the ordinary individual to gain social status through the work they participated in provides the distinctive character of the nature and rise of the modern profession. And given the significantly increased importance of the professions in the functioning and life of society it is easy to see why the professions became a natural focus of attention for sociologists and social theorists.

(ii) Academic Definitions

Academic research into the professions took off in the latter half of the 20th century and can be categorised into three broad trends: the "traits approach", the "power approach", and the "professional project" or "professionalisation" approach¹². The traits approach was developed first and foremost by functionalists (for example, Durkheim and Parsons¹³) and flourished in the '50s and '60s. It consisted mainly in listing the attributes of an "ideal-type" profession. The traits approach was strongly criticised by theorists in the '70s and '80s as

being vague and insufficiently critical of the ideological motives that drove the professions to pursue autonomy. Thus the "power" approach (for example, Freidson and Johnson¹⁴) and the "professional project" or "professionalisation" approach (for example, Larson and Jackson¹⁵) have tended to dominate the literature ever since. However, I would argue that a traits approach need not be understood in solely functionalist terms, and, indeed is actually implicitly or explicitly an acknowledged precondition of developing the deeper critical analysis of the other sociological methods. Accordingly I will seek to develop a trait definition of the concept of a profession and in the process address the most important objections of the critics.

(ii.a) The Traits Approach

The traits approach involves listing a set of traits or attributes, such as knowledge, training, autonomy et cetera, which distinguish occupations that are professions from those that are not. However, a number of theorists have questioned the use of this approach as it has failed to yield up a set of attributes upon which all agree. For example, G. Millerson in an often cited work surveyed the lists of twenty one writers and found twenty three different attributes listed with only fourteen of the attributes mentioned by more than one writer¹⁶. This has led some, for example, Klegon, to reject the very idea of trying to define professions in terms of characteristics that are putatively "...inherently distinct from other occupations"¹⁷. He is joined by R Hugman who argues that the traits sociologists cite are not "natural" elements that belong to certain types of occupation but traits strategically selected to pursue "self-government" (autonomy)¹⁸. Klegon and Hugman (et al) suggest that we should instead focus upon the processes by which an occupation *achieves* professional status. However, as Freidson rightly points out, this does not get around the problem of definition but rather reintroduces it in the area of professional status i.e. what are the defining characteristics of professional status?¹⁹. Even those like Freidson who believe that the real focus of the concept of a profession should be upon political and economic influences accept that there needs to be some attempt to define the attributes of a profession however inconclusive the results might be.

Actually I do not think that the differences in the lists of attributes compiled by different writers is anywhere near as problematic as might first be thought. Although there are indeed differences in most cases it is possible to group the various attributes listed under more general and relatively uncontroversial *classes* of attributes which are clear enough to delineate the basic structure of the professions. Magali Larson identifies three general classes of attributes: *cognitive, normative, and evaluative*²⁰. The *cognitive* attributes of a profession concern the knowledge upon which a profession is founded and the training required to facilitate the acquisition and competent application of that knowledge in professional practice. The *normative* attributes of a profession concern the ethical principles and values which direct and regulate the professional's working life. These commit the professional both to fulfil the objectives and standards of excellence that are determined internally within the profession, and to orient herself to serve the external interests of her clients and society while acting in a professional capacity. In short they act to guarantee the integrity and accountability of the profession (and professional) which in turn legitimates the conferment of autonomy upon the profession to regulate its own affairs. The *evaluative* aspects of a profession concern the ways in which professions in comparison with other occupations are accorded a distinctively high social status and prestige, based upon the perception that they provide (and are motivated to provide) some important service for the public good.

Thus, even though theorists may disagree over the precise nature and identification of the attributes which constitute a profession, and often disagree in the way in which these attributes are articulated, it is typically possible to discern an implicit general agreement that some such attributes must be fulfilled within the three classes of cognitive, normative and evaluative criteria. A brief perusal of the following three definitions should confirm this point:

A) "A profession is a vocation whose practice is founded upon an understanding of the theoretical structure of some department of learning or science, and upon the abilities accompanying such understanding. This understanding and these abilities are applied to the vital practical affairs of man. The practices of the profession are modified by knowledge of a generalised nature and by the accumulated wisdom and experience of mankind, which serve to correct the errors of specialism. The profession, serving the vital needs of man, considers its first ethical imperative to be altruistic service to the client."

(ML Cogan "Towards the Definition of a Profession" in HM Vollmer and DL Mills (eds), 1966, **Professionalization**, New York, Prentice-Hall)

B) "...a profession may be defined as an occupation possessing a skilled intellectual technique, a voluntary association and a code of conduct. It is this last factor, the guarantee of integrity, that is the main distinguishing mark of the professions."

(B. Kaye, **The Development of the Architectural Profession in Britain**, quoted in: K Prandy, 1965, **Professional Employees**, London, Faber and Faber)

C) "Succinctly put, all professions seem to possess: (1) systematic theory, (2) authority, (3) community sanction, (4) ethical codes, and (5) a culture."

(E Greenwood "Attributes of a Profession", 1957, *Social Work*, Vol.2, No.3, pp44-55)

It should be fairly clear how the attributes cited in these definitions fall under the general cognitive, normative and evaluative classes of attributes. And, indeed, I would argue that these examples reflect the same implicit cognitive, normative and evaluative structure which any plausible definitions of this sort share. It is only where definitions actually contradict each other over the requirement of fundamental features that a real threat is posed to the very idea of definition. However, most disputes are not actually like this but rather tend to concern disagreement about *how* a particular attribute is to be *understood and articulated* and this should be viewed as an inevitable consequence of the diversity of occupations which provide the empirical data that inform the development of the concept of a profession. This sort of disagreement should not, then, be viewed automatically as a sign of

irredeemable confusion concerning the concept of a profession, but rather should be seen as a recognition that the concept needs to be broad and fluid in its definition in order that its application to particular empirical professional situations can reflect the specificity of the context in which the various attributes are fulfilled.

Accordingly I intend to work with the following general definition of a profession which identifies six criteria that accord with the cognitive, normative and evaluative classes that define the basic structure of a profession, and which I have found to occur consistently in theorists' definitions of the professions:

(figure 1)

DEFINITION OF A PROFESSION

1. **KNOWLEDGE:** A profession is concerned with, and founded upon, a substantial body of complex specialised knowledge which is constantly reviewed and updated.

2. **TRAINING:** A profession puts its professionals through a substantial period of training and education (usually at a college or university) in order both to impart its specialised knowledge and ensure the competent practical application of that knowledge in professional practice. The successful completion of training will normally result in the awarding of a recognised qualification which (frequently) acts as a licence to practise.

3. **SOCIAL IMPORTANCE:** The work of the profession is widely perceived to be of special relevance to society. The profession's work is seen as an important structural element in the identity and functioning of society and necessary for the effective functioning of the individual within society.

4. **ETHICS:** A profession is guided and regulated in accordance with a set of ethical values which is embodied within an explicit code of conduct and tacitly within the acknowledged aims and standards of normal working practice. A profession also recognises a responsibility to serve the public good.

5. **ORGANISATION:** A profession exhibits a high degree of organisation which creates a sense of community and unity among its members. This organisation is typically formalised in the form of an independent professional association and/or body which represent and govern the profession.

6 **AUTONOMY:** A profession is accorded the privilege of self-regulation which allows it to determine for itself the standards of service and conduct that are appropriate for professional practice.

Attributes 1 and 2 fall into the cognitive class of criteria, 4 falls into the normative class, and 3, 5 and 6 fall into the evaluative class²¹.

Now, even if I am right to suggest that criticisms about the variety of attributes listed by different writers fail to undermine the attempt at definition (because there is a general underlying agreement about the basic cognitive, normative and evaluative structure of any such definition) a further objection to any definition of this type is frequently advanced.

This objection is that such a definition fails to specify the *extent* to which the attributes or criteria specified need to be fulfilled in order for an occupation to count as a profession.

And it is indeed true that the definition does not specify, for example, just how much and how specialised and complex professional knowledge needs to be, or for how long the training should continue. Nor, for that matter, does it specify just how socially important the work needs to be, nor how organised the profession needs to be, nor the extent to which it needs to be self-regulating. Proponents of this objection then typically move on to argue that this shows that any occupation either could count as a profession or could imitate the characteristics of "real" professions²². I shall argue that such criticisms are largely unfounded for two important and closely connected reasons.

First, as I mentioned above (p.3), these criticisms have their source in a confusion about just what sort of concept the concept of a profession is supposed to be and how it is to be used.

My point here can be illuminated by making reference to a distinction between two different

sorts of concepts identified by Max Weber²³ (although I do not claim to be using that distinction in what follows in the same way that Weber does or would necessarily approve). Weber recognised that in contrast to natural science the phenomena (and problems) that form the subject matter of the social sciences are necessarily "value related" (because of their cultural significance). Accordingly the type of concepts required to interpret and explain these phenomena (and problems) must fit the task of addressing the value interests that underlie them (among other considerations). Weber thus identified and distinguished between two sorts of concepts that were appropriate for this activity: "ideal-type" concepts and "descriptive" concepts. In brief, an "ideal-type" concept is

'...constructed by the abstraction and combination of an indefinite number of elements which, although found in reality, are rarely or never discovered in this specific form.'

(A. Giddens, 1971, *Capitalism and Modern Social Theory*, Cambridge, Cambridge University Press p.141)

An ideal-type, then, is not something intended (with empirical accuracy) to represent anything found in reality: it is rather a *construct* formulated in order to *interpret* and *explain* what is found there. As an idealisation it serves to bring to light certain crucial features found in the empirical phenomenon. In contrast descriptive concepts are concepts intended to describe the empirical form ("these simply summarise the common features of groupings of empirical phenomena" - A. Giddens, *ibid*, p.142). Further, Weber recognised that any descriptive concept can be transformed into an ideal-type concept. To quote Giddens again:

"The transition from descriptive to ideal-types takes place when we move from the descriptive classification of phenomena towards the explanatory or theoretical analysis of those phenomena."

(A. Giddens, *ibid*, p.143)

The point I wish to make can now be stated and is simply this: that *in the literature the discussion of the concept of a profession is frequently confused by the fact that the concept is used ambiguously either as an ideal-type or as a descriptive type and sometimes both.*

Now it may well be the case that this ambiguity of usage is inevitable (indeed I think it is in a sense that I describe below) given the variety of usages that the concept is called upon to serve, but it is absolutely crucial that the form or nature of its usage is always accurately recognised in order to avoid confusion. And the particular confusion I have in mind is based on the requirement that some make of a definition like the one I have outlined above that it both *identify* particular occupations which are professions and simultaneously *explain* why they are distinguished from non-professions. Now, as an ideal-type it is designed to draw attention to the central structural features of a profession that explain its distinction from other occupational forms. It does not seek to describe the reality of any particular empirically existing profession. Thus it can hardly be a criticism of it that as it stands it cannot identify particular occupations as professions, it is simply not designed to do that. What it *can* usefully do regarding that task is guide the enquiries of theorists developing a descriptive concept by identifying the basic structural features of a profession which can then be *given substantive empirical content in the context of the specific occupation/profession concerned*. The fact, then, that the definition of the concept of a profession outlined above *does not specify* the precise nature or extent to which the attributes it identifies need to be fulfilled in specific cases *is a function of its role as an ideal-type* and as such *does not in any way represent a failing*. Indeed quite to the contrary, it would fail as an ideal-type if it did try to specify these requirements in anything other than the broadest of terms, particularly given the variety of phenomena it seeks to explain²⁴.

Now, while I think it should be clear, for the reasons just stated, that criticisms of the definition fail when they ignore or confuse the fact that it is primarily an ideal-type concept, it is perhaps still possible to criticise its use to guide the development of descriptive concepts which identify particular professions. The thought might be that it fails to guide such enquiries appropriately because it still fails to give any indication of what might count in *specific* contexts as an appropriate fulfilment of the conditions of professionalism. And here we come to my second reason for dismissing the claims of the critics of the type of definition I have proposed. It is simply the point alluded to in the previous paragraph, that

the variety of ways in which the attributes identified in the definition are embodied in specific occupations which have a genuine claim for professional status is such as to make such precision impossible. For example, suppose one takes the legal profession as a paradigm case of a profession and proceeds to specify in detail its cognitive attributes in the belief that this will specify accurately what is required of any other occupation seeking professional status: in what ways would we expect such a specification to match the cognitive attributes of, say, the other paradigm cases of professions, medicine and divinity? Obviously we would find great differences, but this would be no reason to assume that either just one or indeed none of them are in fact professions. Specification can only be as precise as the phenomena dictate according to their own logic and empirical reality, and just as we can identify things like chairs and tables without possessing a precise definition so too we can identify professions without possessing a precise definition.

The most important objection to the traits definition I have provided is the one I alluded to above: that it fails to provide a critical account of the *ideological motives* that power the drive to achieve professional status (and thereby monopoly and autonomy). However, not only is the trait definition entirely compatible with analysing and explaining the ideological objectives served by achieving professional status, it is in fact a prerequisite for this sort of critical analysis. In order to understand how an occupation achieves and maintains professional status reference has to be made to the way such traits are incorporated into an occupation's practice. This point holds for the sceptic and non-sceptic alike irrespective of whether one considers those traits as naturally occurring elements or manipulative devices. An unbiased assessment of an occupation's claim to professional status is only possible if one is able to consider critically whether it does genuinely possess specialised knowledge, work for the public good, act in accordance with high ethical values etc. For example, this thesis is in many important respects an attempt to cash out just what it would mean for an occupation to incorporate ethics into working practice such that it could satisfy the claim to support a genuinely professional ethics. Sceptics of the traits approach only really have a case if a traits definition is alone taken as a sufficient means to determine professional

status. However, if a traits definition is incorporated into a critical analysis taking into account ideological motives and the dynamic processes of the professional project (*professionalisation*) the sceptic has little to offer against the use of such a definition. Accordingly I shall embed the trait definition I have outlined within the concept of professionalisation.

(ii.b) Profesionalisation

The central thought and motivation lying behind the idea of the concept of professionalisation is that because it is impossible to identify precisely what a profession is (i.e. precisely the qualitative and quantitative measures of professional status) we should instead examine occupations to assess the extent to which they have been professionalised. J.A. Jackson describes the change in approach as follows:

"The most important element in the rephrasing of this question is of course the definition of the problem in dynamic terms which recognise that in relation to the range of criteria by which a profession may be denoted, there may be considerable variation at different times and under different circumstances."

(J.A. Jackson (ed), 1970, *Professions and Professionalization*, Cambridge, Cambridge University Press, p.5)

In this respect it is most helpful to see the criteria listed in the definition outlined above (p.13) as axes along which occupations can travel in a process of professionalisation, moving from a position on a particular axis where the criterion is fulfilled to a very limited degree to a position further along the axis indicating a much more substantial (transformed) fulfilment of the criterion. Taking each of the axes in turn it is possible to see how each provides a continuum along which a process of professionalisation can take place (see fig.2 below):

(figure.2)

PROFESSIONALISATION

	<u>non-profession</u>		<u>profession</u>
1. KNOWLEDGE	simple technical skill	—————→	complex theoretical knowledge
2. TRAINING	brief, on the job	—————→	prolonged university education
3. SOCIAL IMP.	non-essential to society	—————→	central to functioning of society
4. ETHICS	no specific ethical concerns	—————→	specific ethical values & codes
5. ORGANISATION	none or little	—————→	strong community, professional assoc.
6. AUTONOMY	external regulation	—————→	internal (self) regulation

Clearly, much more could be added to figure 2 to show in greater detail the continuity of the process of professionalisation; however, it should be apparent from its form what the general nature of the dynamic involved concerns²⁵. There will, of course, be no precise point that can be identified along any of the axes at which occupations establish professional status, but as I have previously mentioned, such a requirement places an unreasonable demand upon a definition that it neither could nor should attempt to fulfil. What one certainly can say, however, is that occupations which have travelled minimally along the axes will not count as a profession (for example, street cleaning and packing), and occupations which have travelled considerably along the axes will (for example, medicine and law)²⁶.

A second advantage of adopting the concept of professionalisation is that it facilitates an understanding of the ideological concerns and motives driving the pursuit of professional status by identifying the processes through which an occupation can move to such a position. As shall become clear below, when I consider the example of nursing, a strategy for professionalisation rests crucially on showing that an occupation has advanced to a significant extent along each of the axes represented in figure 2 above. Examining the way in which an occupation moves along these axes is the clearest way in which to judge the ideological motives driving the claims to professional status.

There is also a further gain, connected to the previous point, that under the model of professionalisation a logical and empirical space for the notion of a *semi-profession* is created. Amitai Etzioni describes the semi-professions as:

"...a group of new professions whose claim to the status of doctors and lawyers is neither fully established nor fully desired ... Their training is shorter, their status is less legitimated, their right to privileged communication less established, there is less of a specialised body of knowledge, and they have less autonomy from supervision or societal control than "the" professions."

(A Etzioni (ed), 1969, *The Semi-Professions and Their Organisation*, New York, The Free Press)

Typically, the status of a semi-profession is attached to occupations such as teaching, nursing, and social work. A particularly significant thing to note about the semi-professions is that they represent occupations that have undergone, and continue to undergo, a process of transformation that has taken them from a non-professional to a (semi) professional status. And this process of transformation is neatly encapsulated and explained by the idea of professionalisation that has been outlined briefly above.

To summarise the conclusions of the previous sections: my claim is that scepticism about the prospect of providing a suitable definition of a profession is misplaced, that the (ideal-

type) trait definition presented in figure 1 combined with the concept of professionalisation presented in figure 2 provides a sufficiently detailed concept of a profession to enable us to explain why some occupations are distinguished from others in its terms. Further, this task is identified as a prerequisite for providing the sort of critical analysis of the professions supported by power theorists. I shall now attempt to apply this concept of a profession to nursing which, as I identified in the introduction, is the focus of the empirical data gathered for this thesis.

(iii) Nursing

Nursing provides an excellent example of an occupation which has undergone, and continues to undergo, a substantial process of professionalisation. A typical conception of the nurse's role at the beginning of the twentieth century which depicts it very clearly as a non-professional occupation is provided by Dock in 1917:

"In my estimation obedience is the first and the very cornerstone of good nursing, and here is the stumbling block for the beginner. No matter how gifted she may be, she will never become a reliable nurse until she can obey without question. The first most helpful criticism I ever received from a doctor was when he told me that I was supposed to be simply an intelligent machine for the purpose of carrying out his orders."

(Dock 1917, cited in G Rumbold, 1986, *Ethics in Nursing Practice*, London, Bailliere Tindall)

A nurse who is nothing more than "an intelligent machine" carrying out the doctor's orders is certainly not a professional agent. Now, while it is undoubtedly true that certain dated stereotypes continue to persist in the minds of certain members of the general public and, perhaps, in the minds of a few unreconstructed members of the health care professions,²⁷ what is also true is that the substantive role of the nurse has changed radically from this early depiction. Further, as I shall seek to demonstrate, these changes are only fully illuminated when they are understood as belonging to a process of professionalisation. In each of the cognitive, normative and evaluative classes of criteria identified above (p12) the

institutions representing the occupation of nursing have explicitly sought to advance, and in many respects has succeeded in advancing, the claims of nursing to professional status, a point recognised in a number of works²⁸.

(iii.a) Cognitive professionalisation

In regards to the cognitive criteria for professionalism - training and knowledge - there have been some very significant recent changes. Perhaps one of the most notable of these is the advent of Project 2000²⁹ which represents an explicit attempt to consolidate and further the progress of nursing towards professional status. Project 2000 can in many ways be seen as a natural and logical product of the Nurses, Midwives and Health Visitors Act 1979 which brought into being the statutory regulatory body the United Kingdom Central Council for Nursing, Midwifery and Health Visiting (UKCC) and which placed a mandatory duty upon that body to establish, maintain and improve standards of professional conduct and training. The UKCC is required by the 1979 Act to state the requirements that must be satisfied, the nature and levels of competencies that need to be achieved, for a nurse to be admitted to the national register³⁰. Project 2000 represents a clear attempt by the UKCC to fulfil those fundamental duties. The series of reforms that Project 2000 has introduced have included the abolition of the minimally trained enrolled nurse and the establishment of a lengthened, in-depth, specialised and universal standard of education and training that has, to quote Laft and Smith:

"...raised the quality of nurse education by not only setting the standard at a higher level, that of a diploma instead of a certificate, but also changing the status of nurses in training to that of true students."

(Laft S & Smith M, 1994, *Nursing in General Practice*, London, Chapman Hall)

The three year period of training instituted by Project 2000 has radically changed the focus of nurse education from an "on-the-ward" task learning process to an approach which is largely classroom based and founded upon nursing theory. The foundation of professional practice upon a body of theoretical knowledge and training is, of course, recognised as one

of the most important hallmarks of a profession (as noted earlier). Along with the introduction of Project 2000 the strengthening of the theoretical knowledge base and training of the nursing profession has been further enhanced by the rapid expansion of undergraduate and postgraduate degree programmes in nursing and health studies offered by universities. This not only achieves for nursing the recognition that its knowledge base is of a genuinely theoretical and professionally "respectable" kind, but also has led to nurses themselves engaging in the sort of research into an understanding of the basis of professional practice that is essential in developing a cohesive community of professionals that represent the type of reflective practitioners synonymous with the picture of professional agents with which we are most familiar³¹. For example, the University of Wolverhampton delivers a nursing degree programme that places great emphasis upon training in methods of research and requires each nurse to propose and conduct an individual research project. Additionally, nurses on the degree programme undertake modules that investigate the link between professional practice and fundamental issues in psychology, law, social policy, politics, ethics and philosophy. The rationale for these demands, as explained by the course director, is to provide a firm academic and theoretical footing to the education and training the nurses receive³². Further evidence of the expansion of the knowledge base of nursing is provided by the proliferation of books and nursing journals which contain material researched and written by nurses themselves.

The rapid growth and specialisation of the knowledge base of nursing and the changes in the structure and content of the training that have accompanied this growth represent, then, a clear case of professionalisation in respect of the cognitive criteria that need to be fulfilled for the ascription of professional status³³.

(iii.b) Normative Professionalisation

A continuing process of professionalisation of nursing can also be discerned regarding the normative criteria required for professional status. Ethical considerations have received an enormous amount of attention from the UKCC, and also from researchers working in the

specific field of nursing ethics (including traditional academics and nurses), and also from practising nurses generally³⁴. One very important manifestation of a heightened concern with ethics was the production of a code of conduct by the UKCC in July 1983 entitled "Code of Professional Conduct for Nurses, Midwives and Health Visitors". I have already noted above that the production of a code of ethics (or conduct) is considered to be an essential hallmark of a profession. However, as I also mentioned, it is clearly not sufficient for the ascription of professional status merely to develop a code; the extent to which the adoption of a code of ethics or conduct represents a genuinely substantive professionalisation of an occupation depends very much upon the nature and extent to which the code is incorporated into everyday practice. In this respect there seems to be clear evidence that the UKCC places the Code of Professional Conduct at the core of nursing practice.

The production of the Code of Professional Conduct was a direct response by the UKCC to its legal requirement to establish and improve standards of professional conduct. However, Reginald Pyne, the UKCC's Assistant Registrar for Standards and Ethics who was deeply involved in developing the Code, claims that the Code was also produced to serve three other more specific needs:

- "(1) To establish more clearly than ever before the extent of the accountability of registered practitioners.
- (2) To assist practitioners in the exercise of their professional accountability so as to achieve high standards of professional practice.
- (3) To encourage practitioners to assert themselves so that the primacy of the interest of their patients and clients is respected."

(RH Pyne, 1992, *Professional Discipline in Nursing, Midwifery and Health Visiting*, Oxford, Blackwell, p.28)

From its outset, then, the Code of Professional Conduct was considered to have an important role in providing a principled core to professional practice. In furthering these

aims the UKCC has also produced a number of advisory documents that expand at length upon certain of the clauses and principles contained in the Code of Professional Conduct. For example, in 1987 the Council produced an advisory document on confidentiality which it called "Confidentiality", and in 1989 it produced the document "Exercising Accountability". In the latter document the Council clearly states the central importance of the Code to the profession by identifying three essential functions that it serves. First, it is "a statement to the profession of the primacy of the interests of the patient or client", secondly, "a statement of the profession's values", thirdly, "a portrait of the practitioner which the Council believes to be needed and which the Council wishes to see within the profession.". Every registered nurse receives a copy of the Code which states in unequivocal terms that each nurse must at all times act in accordance with the fundamental principles of good nursing practice that the UKCC identifies in the clauses of the Code. The centrality of the Code as a guide to nursing practice is, perhaps, asserted most strongly in the introduction to the UKCC advisory document "Exercising Accountability" (UKCC 1989) where the Council states explicitly that the Code of Professional Conduct,

"...is the Council's definitive advice on professional conduct to its practitioners. In this extremely important document practitioners on the UKCC's register find a clear and unequivocal statement as to what their regulatory body expects of them."

(UKCC, 1989, Exercising Accountability, London, UKCC)

The commitment that the UKCC has to making the Code of Professional Conduct central to nursing practice is further demonstrated by the Council's declared intention to use the Code as a key document in judging cases of professional misconduct. This intention is stated explicitly in section 63 of the document "With a View to Removal from the Register...?" (UKCC, 1990) in which a nurse charged with professional misconduct is advised that, "It is wise to refer to the two items the Professional Conduct Committee members will have in mind. The first of these is the definition of misconduct in the statutory rules which states that "Misconduct is conduct unworthy of a nurse, midwife or health visitor." The second is the Code of Professional Conduct for the Nurse, Midwife and Health Visitor..."

Use of the Code has proven in practice to be an integral part of the conduct of professional misconduct hearings of the Professional Conduct Committee³⁵.

It is also clear that the UKCC has attempted to raise awareness of the importance of the Code by encouraging nurses to participate in an active dialogue with the Council in developing and interpreting its substantive principles and their functioning in professional practice. For example, in response to the first edition of the Code, and at the explicit invitation of the UKCC, over 4000 nurses wrote to the Council with criticisms and suggestions about its structure and content³⁶. As a result a second edition was produced by the UKCC in November 1984 entitled "Code of Professional Conduct for the Nurse, Midwife and Health Visitor" which took account of these comments. A third edition was published in 1992, and the Council is committed to an ongoing process of review and updating.

Although the Code of Professional Conduct has been the main focus of attention of the UKCC there is a number of other forms and structures within the profession in which ethical issues have received increasing attention. For example, modules and courses in ethics are now a standard part of a nurse's education (both as a part of Project 2000 and degree programmes), national conferences in nursing ethics have occurred, and there has been a phenomenal increase in the literature written on nursing ethics (books, journals et cetera). Nurses also participate in increasing numbers on various types of ethics committees in hospitals and in professional organisations (for example, the Royal College of Nursing (RCN)).

The evidence appears to be very strong indeed that the adoption of the Code of Professional Conduct and its substantive incorporation into everyday nursing practice, coupled with the recognition of the importance of introducing ethical issues in the education and training of nurses, and the participation of nurses on ethics committees and the like, represents a

genuine process of professionalisation in the normative class of criteria of the professional model.

(iii.c) Evaluative Professionalisation

The degree to which nursing has significantly professionalised in the evaluative class of criteria varies. There can be no doubt that in the areas of autonomy and organisation nursing has professionalised considerably. This is largely as a result of the Nurses, Midwives and Health Visitors Act 1979 (mentioned above) which brought into being the UKCC and with it the autonomy of nursing to regulate its own standards of training, knowledge and conduct. This in turn has necessitated the development of a greater sense of identity, coherence and structure in organisation. However, there is no clear evidence available which gives an indication of whether the social status and prestige of nursing has increased in a way which might be described as an indication of achieving professional status. Undoubtedly, nurses are held in esteem by the general public, but the extent to which this esteem reflects a perception of nurses as professionals is very unclear. The very nature of professional prestige and social status is, of course, very complex; and if, as I suggested earlier, it is most plausible to see the prestige of the professions as having root in their fulfilment of the cognitive and normative criteria outlined in the professional model (see footnote 25) then the esteem in which nursing is held in the public imagination may or may not be an example of professional prestige. For example, it is undoubtedly true that part of the prestige of the professions arises from the public's perception that the profession concerned is devoted to serving the public good, and no doubt the esteem with which nursing is regarded reflects a perception that nurses are such individuals devoted to the welfare of others. To that extent, then, the esteem with which nursing is regarded reflects a perception of them as professionals. However, it is also undoubtedly true that part of the prestige of the professions arises in significant part from the public's perception that the profession concerned deals with a specialised area of knowledge which involves a great amount of learning and training to master, but it is far from clear that this perception forms a significant part of the public's esteem of nursing. To that extent, then, nursing seems to lack

professional prestige. This, of course, should come as no surprise given that nursing has to share the health care setting with the medical profession (a paradigm example of a profession) and as a result lives to some extent in its shadow. Further, nursing has only very recently been granted the autonomy to regulate its own practice (established by the 1979 Nurses, Midwives and Health Visitors Act) and has only very recently developed a substantial independent cognitive base creating a distinctive practice, and these facts inevitably will take time to enter fully into the public's perception of the profession. Whether these facts actually will come to ground the prestige of nursing more broadly in the cognitive attributes of the profession as well as in the normative public service ideal remains to be seen.

Now, while I have some reservations about describing nursing as having professionalised significantly in one of the evaluative criteria it ought to be clear that I believe it has certainly undergone and continues to undergo a successful process of professionalisation in the other criteria. Further, I hope it is also clear that the changes in nursing organisation and practice that I have described only receive a proper articulation and explanation when they are understood in terms of the concept of professionalisation.

It seems clear from all the preceding arguments of this chapter and from the example of nursing that there is a genuine distinction to be made between different types of occupations in terms of the concept of a profession, and perhaps more usefully, in terms of the concept of professionalisation. Accordingly attention must now turn to the question raised at the beginning of the chapter which concerns the nature of the link between ethics and the professions³⁷.

.....

II.

Ethics and the Professions

(i) The shape of the Debate

The need for a heightened concern with ethics in professional life arises inevitably from the features of a profession identified in the definition above. Fundamental to this requirement is the *trust* clients must invest in the professions (and professionals) to intervene in areas of their lives which are crucial to their effective functioning in modern society. Each of us as actual and potential clients depend upon the expertise of professionals to ensure our individual well-being. Health care professionals, civil engineers, architects, and lawyers (etc.) all perform services without which we could not adequately live. Further, the expert knowledge and techniques practised by professionals is something we either do not have the ability to perform for ourselves or do not have the time to perform; either way professionals serve our fundamental needs. As Eliot Freidson has emphasised, the "torrent of criticism" to which the professions have been subject has singularly failed to answer the practical question "What are the alternatives to professionalism?". He concludes that "... professionalism is both necessary and desirable for a decent society."³⁸. He is supported in his view by Bernard Williams who argues:

"Academics (in particular) are sometimes tempted to feel superior to such professional labours. They should not do so. Those labours serve our needs, which are often the deepest we have - the need for a social order, among others. If those needs are essentially served by some activity or institution, such as a profession, then there is nowhere to go to be superior to that institution, except by climbing out of oneself."

(B Williams, 1995, *Making Sense of Humanity*, Cambridge, Cambridge University Press, p.201)

However, the reliance which we have on the professions inevitably creates an imbalance in the power relation between professional and client and leaves the client vulnerable to the

abuse of professional prerogative. *Ethics consequently becomes the central focus for the legitimation of the trust clients must have in professionals that abuses of power and prerogative will not occur.* Thus the case for the need for professional ethics is prima facie incontrovertible and I shall take for granted from here on that there is no need to consider this case further. Rather, the important question, about which this thesis shall be entirely concerned, is the question about *how ethics is to be incorporated into professional life.*

As Bernard Williams has pointed out, *what is significant in the very idea of a professional morality (or ethics) is the possibility that such a morality may diverge from everyday or general morality, indeed that some sort of a divergence is fundamentally what gives the idea of professional ethics any real content*³⁹. For example, it is commonly accepted that professionals in virtue of occupying some professional role are morally permitted, or required, to do things that would be considered unethical if performed by a non-professional (say, performing intimate medical examinations, or conducting military operations)⁴⁰. Further, as Williams notes, we understand that in order to perform effectively in their role professionals often need to develop certain dispositions of character which would be morally objectionable in a non-professional context (for example, a lawyer's doggedness in cross-examination)⁴¹. *It is precisely with the question of how to account for this divergence that the whole of this thesis is fundamentally concerned.* That is, in examining how the ethical is recognised in professional contexts, and in considering how the ethical decision making of professionals might be enhanced, it becomes crucial to answer the general question about the relationship of professional ethics (its rules, acts, and dispositions) to ethics generally. Now in discussing the divergence and relation of professional to general ethics it is necessary to consider two things. First, one must enquire into the distinctive nature of the ethical concerns of the professions to examine the extent to which they represent a substantive difference from the general ethics of society. Secondly, one must provide an account of how a distinctive professional ethics is related to, or justified by, the general ethics of society. The first task requires giving actual content to the idea of a professional ethics or morality. I shall claim in what follows that it is precisely for the same

reasons cited in distinguishing professions from non-professions that the distinctiveness of the ethical concerns of the professions, and hence the divergences from general ethics, is to be found. The second task involves providing an explanation, and ultimately a justification, for this divergence from general ethics. The two tasks are inextricably linked and in order to move quickly I propose to treat them together by addressing the fundamental question about the *source* or *derivability* of professional ethics. Broadly speaking there are two alternatives: one account I shall label the "*Deductive Paradigm*" and the other the "*Contextualist Conception*".

According to the deductive paradigm the distinctive ethical concerns of the professions turn out ultimately to be nothing more than an application to a particular case of morality in general: "...everyday morality ... contain[s] professional morality as an application of itself to special circumstances."⁴² This incorporates two main claims. First, that professional ethics is derivable from the more basic or fundamental principles, rules and values of general morality. Secondly, that the "special circumstances" constituted by professional practice centre on the notion of filling a public role. On this account it is precisely the demonstration of a deductive connection from an independently describable general morality to professional ethics that a particular profession's ethics are thought to be justified⁴³. According to the contextualist conception, by contrast, the distinctive ethical concerns of the professions are generated directly from the particular features (or "special circumstances") of professional practices themselves, and although they must in some important sense cohere with general morality, they are, nevertheless, not in any significant sense derivable from it. In this sense professional morality is seen as a specifically distinct category *within* general morality but crucially *not an application of it*⁴⁴. Thus, general morality on this view does not supply an independent set of principles, rules and values against which (or from which) the particular ethics of a profession can be justified.

There are enormously important implications that rest on which of these specific accounts one adopts, and it is very much with these implications that this thesis is concerned.

Accordingly to finish off this chapter I will provide a very brief sketch of the two alternatives in order to map out the general territory of the dispute which I intend to explore in subsequent chapters.

(i) The Deductive Paradigm

According to the deductive paradigm the special ethical concerns of the professions are derived by *applying* the moral principles, rules and values of general morality to the specific contexts of professional practice. The main presupposition lying behind this is the thought that the principles, rules and values of general morality are *universal* in scope. That is, they represent a set of principles, rules and values that apply to anyone no matter who they are or what their job is. Professional ethics on this picture is largely a matter of giving specific content to the moral obligations of professionals by applying higher order universal principles to their particular practice. For example, a universal principle requiring that one tell the truth applied to the special circumstances of a health care setting might make a more specific and stronger demand that a professional actively ensures the truth is known by the person it affects (in a non-professional context the requirement need be no stronger than that one does not actively deceive another about the truth). The appeal of this approach is immediately apparent. As I noted above, the very case for a specific concern with professional ethics rests fundamentally on the need to legitimate the trust clients must have in professionals not to abuse the power they necessarily exert over them. The threat that this might occur focuses in the main on the idea that the professions and professionals might abuse their position in order to pursue their own organisational and personal interests. However, if professional ethics is derived from a universalistic ethics, then the specific interests of the professional organisation and the individual professionals within it are always subject to the overriding claims of ethical principles and values which treat those interests as immaterial to what the professional is morally required to do.

The deductive approach has very important implications for the basic structure of professional ethics which arise inevitably as a result of the essential features of the

universalism upon which it depends. In particular it makes the notion of *moral obligations* almost exclusively the focus of attention, side-lining other moral concepts like the virtues and moral goods to (at best) a secondary and derivative function. This is an inevitable consequence of the fact that to apply to the actions of everyone, irrespective of the particular differences between them, universalistic theories must focus on moral concepts that are *neutral* between different conceptions of the good, or goods, which particular individuals and groups seek to realise. Moral obligations provide exactly the sort of concept that fits this requirement⁴⁵. The pursuit of particular goods become a relevant consideration only insofar as they represent (or prevent) the instantiation of some neutral (general) moral obligation. And the development of certain moral virtues are relevant only insofar as they enable individuals to fulfil their moral obligations (for example, honesty enables one to fulfil the moral obligation to tell the truth). Inevitably, then, adopting the deductive conception of professional ethics focuses attention upon the development of more specific moral obligations (relevant to the professional context concerned) as an application of those that are universal. For example, a nurse may see the restoration to health of her clients as a particular good which she is motivated to pursue as a significant part of her understanding of what it is to fill her professional role, however, *insofar as this is morally permissible, or required, it is so in virtue of being the instantiation of an obligation to do so*. This particular obligation can be seen as a construct of the universal obligations of beneficence, non-maleficence, respect for autonomy (etc.) applied to the health care context where they are conjoined to a specific contractual obligation to serve the health care needs of her clients⁴⁶. What is crucial to note is that it is the universalistic principles invoked which justify her particular professional obligations (not vice-versa).

The main upshot of adopting a deductive universalistic approach to professional ethics is that its distinctive ethical concerns, to the extent that they are distinctive, focus almost exclusively upon a heightened requirement for *impartial* rules presented as a set of obligations to perform certain duties. *The extent of the requirement for impartial obligations is comprehensive and is the result of adopting universalism in the "special circumstances"*

of action in a public role. This is in contrast to *private* or individual morality. As Thomas Nagel, Bernard Williams, Susan Wolf, Samuel Scheffler, Michael Stocker, et al. have argued, any plausible (universalistic) theory based upon obligations must create a space in a person's life for the individual to pursue (non-impartial) private attachments and personal interests⁴⁷. However, room for the influence of such attachments and interests is totally out of place in the public arena of professional conduct. This is a natural consequence of the particular type of specialised interventions that professionals are called upon to make, and the trust required of clients to allow such interventions to be made (which I have already discussed above). According to the deductive paradigm such *trust is legitimated by the fact that the professional is guided in her conduct at all times by a set of impartial obligations to serve each client's interest.* This ensures that she will dispense her services in a strictly disinterested fashion seeking no illegitimate gain to herself, her profession, or to other particular clients (this in turn justifies the autonomy that is accorded to the professions)⁴⁸.

The dominance of this conception of professional ethics is demonstrated very clearly by the overwhelming focus of attention within the professions and also in much of the literature on the professions in developing formal codes of conduct (or ethics). Codes of conduct on this reading just are lists of impartial obligations set out as ethical principles, rules and side-constraints designed to direct and regulate professional activity. Nigel Harris in a survey of 150 codes of conduct noted that all of them consisted of a series of clauses expressed as imperatives *obligating* the professional to perform (or refrain from) certain acts⁴⁹. The impartiality of a code's clauses work at two levels: first, they apply to *any* individual who takes on the role concerned, secondly, they are morally justified by being shown to be an application of universal principles and rules.

Now, while it is undoubtedly true that developing codes of conduct forms a very important part of the ethical life of the professions, its predominance as a concern should be seen first and foremost as a reflection of the dominance of the deductive paradigm⁵⁰. However, the

idea that impartial principles and rules (codes of conduct) are the locus of professional ethics is challenged by the contextualist conception.

(ii) The Contextualist Conception

The contextualist conception locates the distinctiveness of professional ethics much more fundamentally and directly in the features of professional practice itself, i.e. in the "special circumstances" of practice within which professionals act. *The key thought here is that there is no set of (external) universal principles which can be applied to practice, either to guide or justify ethical conduct within the professions.* The questions immediately arise concerning just what sort of practice professional practice represents, and in what way does it entail distinctive ethical concerns. In answering these it is most fruitful to turn to the definition of a practice described by Alasdair MacIntyre in his seminal work "After Virtue" (1985, 2nd ed, London, Duckworth):

"...[A practice is]...any coherent and complex form of socially established co-operative human activity through which goods internal to that form of activity are realised in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended."

(A MacIntyre, 1985, 2nd ed, *After Virtue*, London, Duckworth, p.187)

It is particularly significant that among the sorts of activities that MacIntyre identifies as examples of practices (including games such as chess and football, the making and sustaining of family life, the enquiries of physics and history et cetera, pp.187-8) he picks out certain professions such as architecture (p.187) and medicine (p.194) as paradigm cases. Further, it is possible (quite easily) to superimpose the definition of a profession outlined earlier quite neatly onto this definition of a practice. A quick way in which to grasp this idea, and also to grasp how it provides an argument for the contextualist conception, can be supplied by focusing on the key notion of "*internal goods*".

MacIntyre claims that in the course of engaging in a practice it is possible to realise goods that can be categorised into two kinds, those which can only be realised by engaging in that particular form of practice, and those that can be realised in other forms of practice or activity as well as the one in which they are actually realised in. The former represent the goods "internal" to practice and the latter represent goods "external" to practice. The difference between these two kinds of goods can be brought out clearly by the use of an example. Suppose that an individual, let us call her Kylie, is a songwriter for musicals, i.e. she engages in the practice that we might call musical song writing, it is possible for Kylie in the course of her practice to realise or achieve two sorts of goods or goals. On the one hand she can excel in the art of musical song writing, she can demonstrate the sort of complex imagination required to meld the particular combination of melody, lyric and drama that is distinctive of a good musical song; this represents a good internal to the practice, it is something that is necessarily connected to the practice concerned, it can only be achieved by engaging in that particular practice, indeed, can only be specified by reference to that practice. On the other hand she might realise or achieve a number of other goods by excelling at musical song writing, for example, she might become famous and wealthy. However, in this case the goods concerned are only contingently connected to the practice concerned for it is logically conceivable and empirically possible that she might achieve these particular goods by engaging in an entirely different sort of practice or activity, such as acting or novel writing, et cetera. This distinction can be emphasised by a further consideration. If we suppose that Kylie genuinely wants to be a good songwriter then one option denied to her is cheating; for example, she cannot become a good songwriter by murdering Tim Rice, stealing his songs and passing them off as her own. Admittedly if she was successful in such a scurrilous enterprise she might generally be perceived to be a good songwriter but, of course, she would not actually be a good songwriter and thus could not realise the internal goods of song writing. On the other hand, if her only genuine interest in song writing is to achieve certain external goods such as wealth and fame then cheating becomes a very real option. Success in assassinating Tim

Rice and passing off his songs as her own could indeed realise the goods of wealth and fame she craves.

Now, it should be clear from what has been said above that professions represent paradigm cases of practices which centre upon the realisation of internal goods. If one considers the definition of a profession outlined earlier more fully it is very apparent that professions represent an excellent example of a "...coherent and complex form of socially established co-operative human activity..." in which such goods are realised. A highly developed level of organisation fostering a cohesive sense of community and shared form of life was identified as an essential element for professionalism, and as we have just seen it is precisely this sort of organisation which provides the environment in which internal goods are achieved by conforming to, and extending, the standards of excellence (and the conception of goods) which in practice largely define the nature of the profession concerned. Indeed, fulfilment of the cognitive, normative and evaluative criteria in any particular case of a profession consists largely in defining the internal goods of a practice, in providing the training professionals need in the skills and standards of excellence required for realising those goods, and also in orienting the dispositions of the professional to pursue those goods. Further, in the very act of distinguishing between professions our natural resort is to describe the specific knowledge with which a particular profession is concerned and this consists primarily in describing the internal goods of practice and the means by which those internal goods are realised. So the notion of a practice, as MacIntyre defines it, with its key notion of internal goods shows a striking resemblance to the concept of a profession defined earlier.

Clearly much more could be said about the nature of a practice and the identification of professions with practices; however, such an expanded account belongs to later chapters. My purpose here is simply to show that there is at the very least a *prima facie* case for such an identification and to show how this in turn lends support to the contextualist conception of professional ethics. It is to the latter task I must now turn. In what way(s), then, do the

distinctive ethical concerns of the professions arise directly from the distinguishing features of professional practice?

MacIntyre's answer, again, centres crucially on the notion of internal goods. Put very simply he argues that the internal goods of a practice can only be realised if the individuals engaged in the practice concerned act in accordance with certain moral dispositions or virtues:

"A virtue is an acquired human quality the possession and exercise of which tends to enable us to achieve those goods which are internal to practices and the lack of which effectively prevents us from achieving any such goods"

(A MacIntyre, *ibid*, p.191)

The example used earlier elucidates this point, it was noted that Kylie could not realise the internal goods of musical song writing if she cheated; thus honesty is a moral disposition (virtue) necessary to realising internal goods. MacIntyre makes the same basic point with regard to other virtues such as justice and courage (*ibid*. p.191, *passim*), and it takes little reflection to see that he is right in this. His point, however, goes even deeper: virtuous behaviour is also required for there to be any internal goods to realise in the first place. For example, acting justly is necessary within the context of a practice for it to be possible even to define the shared goods, standards and objectives that constitute that practice. Unless the members of a practice distribute the goods (internal and external) of the practice according to the established impersonal criteria that identify who deserves what in that particular context then the very idea that there is a shared practice being engaged in at all is seriously undermined. For example, if a consultant surgeon arranged the priority of treatment of patients X and Y on the ground of the urgency of their condition but placed patient Z, whose condition is more urgent, at the bottom of the list on the grounds that she finds the patient's taste in ties sartorially objectionable then she would have defined a new relationship to the patient (Z) which falls outside of the description of it in terms of the (professional) practice

in which she is putatively engaged⁵¹. Similarly, rewards within the profession (promotion, financial etc.) need to be distributed among professionals in accordance with the merit warranted by the nature of the internal goods and standards of excellence being pursued. Insoluble dispute over what counts as the just distribution of rewards in a practice is a sign that there is a deep-seated disagreement over what counts as the standards of excellence and goods in the practice concerned. Indeed, in both of the situations just described there is the very clear implication that the practice has become an activity pursued solely for the purpose of realising external goods.

It should be becoming clear by now in what sort of way the contextualist conception represents a distinct alternative to the deductive paradigm of professional ethics. In relating ethics primarily to the pursuit of internal goods within a (professional) practice contextualism eschews the appeal to universal (impartial) principles in favour of developing a professional's ability to exercise *particularistic* moral judgements within specific contexts⁵². The particularism of MacIntyre's contextualist account comes over in at least one very important way. Any particular virtue can only be given substantive content by direct reference to the practice concerned. For example, while we might say generally that courage is the "... disposition to *overcome fear*, for the sake of that judged to be right"⁵³, *what it is to behave courageously as, say, a nurse or a soldier will differ in significant ways such that it is impossible to recognise or display the virtue of courage in these particular contexts without reference to the nature of the practice (goods) concerned*. Whereas the nurse in her role as a nurse is seldom called upon to endanger her life in behaving courageously (although she may endanger her livelihood as in cases such as whistle blowing) for the soldier this represents the typical example of courage. Similarly in unifying all the virtues required in a particular professional role, the hierarchical ordering and balance that needs to be struck between the virtues, can only be established by reference to the context of practice. Accordingly we expect the nurse and the soldier to establish quite different orderings of the virtues which reflect the requirements of the very different sorts of (internal) goods with which their practices are concerned⁵⁴.

A further important difference between the two positions should also now be clear.

According to the deductive paradigm professional ethics centres upon the development of specific rules of conduct derived from universal principles and rules which guide the professional in what she should *do*. According to the contextual conception professional ethics centres upon the development of moral dispositions, the virtues, which first and foremost guide the professional in what she should *be*. This, of course, reflects the general distinction in ethics between ethical theories that prioritise the "right" and those that prioritise the "good"; Kant is a distinguished representative of the former and Aristotle of the latter. As we have seen, according to the deductive paradigm, in deciding what it is right to do the professional begins from outside her professional context by applying universal and impartial principles to her practice (a top down approach). In contrast in developing a conception of what it is good to be a professional must, according to the contextualist conception, begin from the context of the practice itself, she must begin, that is, from some conception of what a good nurse, doctor, soldier, teacher et cetera is (a bottom up approach). Naturally the questions about what it is right to do and good to be are not mutually exclusive. For example, conceptions of what constitutes a good nurse to be will have an inevitable consequence for views about what it is right for a nurse to do (and vice-versa). However, the priority that one affords to either of these approaches is of the utmost consequence.

This, then, represents the question that both dominates the philosophical theory of professional ethics and, accordingly, my particular thesis. *In ethical reasoning and decision making from where should the professional begin, is it from a set of impartial principles that apply universally, or is it from a conception of the goods and virtues developed in the context of practice?*

¹ For example: JB McKinlay argues, "... there is no logical basis for distinguishing between so-called professions and other occupations." ("On the professional regulation of change", in P Halmos (ed) 1973, *Professionalization and Social Change*, Sociological Review Monograph, No.20, University of Keele, p.65. See also: P AEtzioni, A (ed) 1969, *The Semi-Professions and Their Organisation*, New York, The Free Press. Abbott, "Conflict over the Grey Areas: District Nurses and Home Helps Providing Community Care," in P Abbott and L Meerabeau, 1998 (second edition), *The Sociology of the Caring Professions*, London, UCL Press. P Abbott and RJ Sapsford, "Health Visiting: Policing the family?", in P Abbott and C Wallace (eds), 1990, *The Sociology of the Caring Professions*, Basingstoke, Falmer. E Freidson, 1970, *Professional Dominance: The Social Structure of Medical Care*, New York, Atherton Press. WJ Goode, "Encroachment, charlatanism and the emergent professions", 1960, *American Sociological Review*, Vol 25, pp.902-14. I Gough, 1979, *The Political Economy of the Welfare State*, London, Macmillan. R Hugman, 1991, *Power in the Caring Professions*, London, Macmillan. I Illich, 1977, *Disabling Professions*, London, Boyars. T Johnson, 1972, *Professions and Power*, London, Macmillan. M Larson, 1977, *The Rise of Professionalism: A Sociological Analysis*, Berkeley, University of California Press. WE Moore, 1970, *The Professions: Roles and Rules*, New York, Russell Sage Foundation. J Salvage, 1985, *The Politics of Nursing*, London, Heinemann. S Walby, 1990, *Theorising Patriarchy*, Oxford, Blackwell. J Williams, "What is a profession? Experience versus expertise", in J Walmsely, J Reynolds, P Shakespeare, and R Woolfe (eds), 1993, *Health, Welfare and Practice: Reflecting on Roles and Relationships*, London, Sage. A Witz, 1992, *Professions and Patriarchy*, London, Routledge. CW Mills, 1956, *The Power Elite*, New York, Oxford University Press

² K Prandy, 1965, *Professional Employees: a study of scientists and engineers*, London, Faber and Faber.

³ For example: B Barber, "Some problems in the sociology of the professions", 1963, *Daedalus*, Vol. 92, No.4. AM Carr-Saunders and PM Wilson, 1933, *The Professions*, London, Oxford University Press. ML Cogan "Towards the Definition of a Profession" in HM Vollmer and DL Mills (eds), 1966, *Professionalization*, New York, Prentice Hall. A Etzioni (ed), 1969, *The Semi-Professions and Their Organization*, New York, Free Press. E Greenwood "Attributes of a Profession", 1957, *Social Work*, Vol.2, No.3, pp.44-55.

⁴ For example: E Freidson, 1986, *Professional Powers: A Study of the Institutionalization of Formal Knowledge*, Chicago, University of Chicago Press. WJ Goode "Encroachment, charlatanism and the emergent professions", 1960, *American Sociological Review*, Vol. 25, pp.902-14. R Hugman, 1991, *Power in the Caring Professions*, Basingstoke, Macmillan. H Jamous and B Peloille "Changes in the French university-hospital system, in JA Jackson (ed), 1970, *Professions and Professionalization*, Cambridge, Cambridge University Press. TJ Johnson, *Professions and Power*, London, Macmillan.

⁵ See for example, E Sutherland "Professionalisation in Illegitimate Occupations: Professional Theft" in HM Volmer and DL Mills (eds), 1966, *Professionalization*, New York, Prentice-Hall.

⁶ I am, of course, ignoring Quine's claims in "Two dogmas of empiricism" in WV Quine, 1953, *From a Logical Point of View*, Cambridge Massachusetts, Harvard University Press.

⁷ Some recent work by sociologists has suggested that re-focusing on the act of professing is key in understanding how professional life can be "reborn" to fulfil the altruistic goals that warrant their social status. For example, Eliot Freidson argues: "... a professionalism expressed purely as *dedication* to the *committed* practice of a complex craft that is of value to others. ...is the most radical way by which professionalism could be reborn." (1994, *Professionalism Reborn: Theory, Prophecy and Policy*, Cambridge, Polity, p.10. Italics mine). The philosopher, Daryl Koehn (1994, *The Ground of Professional Ethics*, London, Routledge) argues that the idea of professing or pledging to serve a particular aspect of the public good (health, law etc.) should form the ground of professional ethics. She claims it is only insofar as a professional is seen to act in accordance with such a pledge that a client's trust in her is justified. Fellow philosopher, Michael Davis argues that professions, "... must claim, declare, openly assume--that is to say, *profess*--a higher standard of conduct than that of ordinary people. ... there is no profession ... without something to *profess*." ("The Special Role of Professionals in Business Ethics", *Business and Professional Ethics Journal*, Vol.7, No.2, p.52: italics mine)

⁸ Lisa Newton, for example ("Lawgiving for Professional Life", 1981, *Business and Professional Ethics Journal*, Vol.1, No.1) identifies as a criterion for professionals that: "They are employed full-time in the practice of that art [profession], entailing that the art is practised for pay."(p.42)

Now one might immediately object to this criterion on the grounds that there obviously are examples of professionals who "practice their art" without financial reward. One only need think of the many doctors and nurses, for example, working in the third world countries as volunteers; to describe them as amateurs or non-

professional would seem an exceptionally gross error and indeed an impertinence. Further, as Freidson has argued (op. cit. p.10) it is when the professional is freed from "material self-interest" that we see most clearly a professionalism thoroughly committed to the public good. However, these objections are essentially innocuous, what seems patently clear is that the institutions of the professions are organised in accordance with the fundamental assumption that the work they regulate is work done for pay.

⁹ See for example, "MS Larson, 1977, *The Rise of Professionalism: A Sociological Analysis*, Berkeley, University of California Press, p.2.

¹⁰ See MS Larson, *ibid*, pp3-4. Also, E Freidson, 1986, op. cit., p.2, Freidson argues that the high status attached to those original occupations considered professions was not in virtue of any deep respect for the skills possessed by its practitioners but because of the high social status of the individuals (gentlemen) who practised.

¹¹ The association of the professional with a certain class of individual was not (and perhaps still is not) entirely eradicated with the advancement of modern day capitalism. In 1958, a submission to a Royal Commission by the Royal College of Surgeons stated: "There has always been a nucleus in medical schools of students from cultured homes ... this nucleus has been responsible for the continued high prestige of the profession as a whole ... Medicine would lose immeasurably if the proportion of such students in the future were to be reduced in favour of precocious children who qualify for subsidies from the local authority and the state purely on examination results."

¹² See, KM Macdonald, 1995, *The Sociology of the Professions*, London, Sage.

¹³ E Durkheim, 1957, *Professional Ethics and Civic Morals*, New York, The Free Press. T Parsons, 1954, *Essays in Sociological Theory*, Glencoe, The Free Press.

¹⁴ E Freidson, 1970, *The Profession of Medicine*, New York, Dodd, Mead and Co. T Johnson, 1972, *Professions and Power*, London, Macmillan.

¹⁵ MS Larson, 1977, *The Rise of Professionalism: A Sociological Analysis*, London, University of California Press. JA Jackson (ed), 1970, *Professions and Professionalization*, Cambridge, Cambridge University Press.

¹⁶ G Millerson, 1964, *The Qualifying Associations*, London, Routledge and Kegan Paul.

¹⁷ See: Klegon, 1978, p.268 quoted in E Freidson, 1994, *Professionalism Reborn: Theory, Prophecy and Policy*, Cambridge, Polity, p.15.

¹⁸ R Hugman, 1998, op. cit. p.182.

¹⁹ E Freidson, 1994, op. cit. p.15. See also E Freidson, "The theory of the professions: the state of the art" in R Dingwall and P Lewis (eds), 1983, *The Sociology of the Professions*, London, Macmillan.

²⁰ MS Larson, 1977, op. cit. p.x.

²¹ Clearly none of the attributes can be considered as entirely distinct from the others. For example, there is a sense in which all of the attributes cited fall into the evaluative class if we understand them to be the reasons why professions are held in high esteem.

²² See for example, H Wilensky "The Professionalization of everyone", 1964, *American Journal of Sociology*, 70, pp.142-6.

²³ This is explained in M Weber, 1949, *Methodology of the Social Sciences*.

²⁴ For example, if one considers, say, the attribute of knowledge it ought to be clear that differences in the nature and kind of knowledge which forms the cognitive basis of different professions makes it imperative that any definition of the knowledge requirement for professional status must be broad if it is to have the scope to explain what is common in all these cases (compare, for example, medicine, law, divinity, teaching, architecture et cetera).

²⁵ It is, perhaps, worth noting that the process does not necessarily proceed in one direction only, it is also possible for an occupation to undergo a process of de-professionalisation which, of course, would involve a retreat along the axes identified in figure 1.

²⁶ This does not, of course, presuppose any moral assessment of the occupations concerned or the people engaged in such occupations, thus to describe street cleaning and packing as non-professional does not imply at all that these occupations are "less worthy" than the professions.

²⁷ As Salvage, notes, the typical nurse is still stereotyped as female, uniformed young and white, the "innocent angel", the "sex symbol" or at her worst the "frustrated battle axe" (Salvage J, 1985, *The Politics of Nursing*, Heinemann Nursing, London.).

²⁸ See, for example, Laft S and Sith M, 1994, *Nursing in General Practice*, Chapman and Hall, London. Pyne RH, 1992, *Professional Discipline in Nursing, Midwifery and Health Visiting*, Blackwell, Oxford. Moloney M, 1992, *Professionalisation of Nursing*, (second edition) J.B Lippincott Company, London.

²⁹ For a fuller explanation of Project 2000 see, UKCC, 1987, *Towards Project 2000*, London.

³⁰ See section 2 of the 1979 Nurses, Midwives and Health Visitors Act, also, Pyne RH, 1992, *ibid* Orr J, 1995, *Nursing Accountability*, in Hunt G (ed) 1995 *Whistle Blowing in the NHS*, Edward Arnold, London.

³¹ The link between professional knowledge and the concept of the reflective practitioner is explored, for example, in DA Schon, 1991, **The Reflective Practitioner**, Aldershot, Avebury.

³² Ros Carnwell, Course Director of the nursing degree programme in the School of Health Sciences, Wolverhampton University.

³³ There are, of course, a number of authors who question whether there is a sufficiently specialised body of knowledge upon which nursing is founded, and the value of attempting to develop such knowledge. See for example: L Clarke "Ideological themes in mental health nursing", in PJ Barker and S Baldwin, 1991, **Ethical Issues in Mental Health Nursing**, London Chapman and Hall. C Davies, "Cloaked in a Tattered Illusion", 1996, *Nursing Times*, Vol.92, 45. G Davison, "Give Credit to Those with Track Record", 1997, *Nursing Standard*, Vol.12, 12. M Dunn, "A Cloak to Fit All?", 1996, *Nursing Standard*, Vol.92, 47, p44. M Gamer, "The Ideology of Professionalism", 1979, *Nursing Outlook*, Vol.27, 2, pp108-11. A Oakley, "What Price Professionalism? The Importance of Being a Nurse", 1984, *Nursing Times*, Vol.80, 12, pp24-27. M Jolley, "The Professionalisation of Nursing: the uncertain path" in M Jolley and P Allen (eds), 1989, **Current Issues in Nursing**, London, Chapman Hall. S Porter, "The Poverty of Professionalisation: a critical analysis of strategies for the occupational advancement of nursing", 1990, *Journal of Advanced Nursing*, 17, 720-26. J Salvage, 1985, **The Politics of Nursing**, London, Heinemann. J Salvage, "Professionalisation or Struggle for Survival? A consideration of current proposals for the reform of nursing in the United Kingdom", 1988, *Journal of Advanced Nursing*, 13, pp.515-19. K Sherrington, "First Class Nursing Without Degrees", 1997, *Nursing Standard*, Vol.12, 8, p.18. S Walby, J Greenwell, L Mackay, and K Soothill (eds), 1994, **Medicine and Nursing: Professions in a changing health service**, London, Sage. Three points are typically considered relevant by these individuals: first, nursing embraces a diverse range of activities and specialisms such that there is no single knowledge base. Secondly, nursing knowledge is insufficiently scientific in nature and relies more on common-sense caring behaviours. Thirdly, attempting to develop a specialised knowledge base distances the nurse from the patient which undermines the essential relationship of care.

³⁴ In the Nursing Ethics Questionnaire used to survey the opinions of professional nurses (see chapter 2 and appendix I(a) and I(b)), response to the following question "Do you think that ethics is an important part of your working experience?" (a) Very important (b) Important (c) Not very important (d) unimportant (e) other, 98% described ethics as very important and the other 2% described ethics as important.

³⁵ See Pyne RH, 1992, *ibid*, p.31, and section 63 UKCC, 1990, **With a View to Removal from the Register...?**, UKCC, London.

³⁶ See Pyne RH, 1992, *ibid*, p.26.

³⁷ As yet I have said little about the claims of power theorists that professional status is pursued merely to achieve monopoly and control. As I hope will become apparent immediately below, and throughout this thesis, the extent to which their claims are true will hinge significantly upon the extent to which ethical values are genuinely incorporated into professional life.

³⁸ See E Freidson, 1994, **Professionalism Reborn: A Study of the Institutionalisation of Formal Knowledge**, Chicago, University of Chicago Press (p.9). Freidson's comments are particularly apposite given (as he himself recognises) that it has often been his own writings that have led to scepticism about the activities of the professions and indeed scepticism about the very need for professions in the first place. See also, Emile Durkheim, 1957, **Professional Ethics and Civic Morals**, London, Routledge and Kegan Paul. Durkheim saw in the dynamic of professional ethics (the internal regulation of behaviour according to standards of excellence and the altruistic motive to serve society) a potential prototype for the moral order of modern society.

³⁹ See Williams B, 1995, **Making Sense of Humanity**, Cambridge University Press, Cambridge, p.192.

⁴⁰ See T Nagel, 1979, **Mortal Questions**, Cambridge, Cambridge University Press, ch.6, pp.75-90.

⁴¹ See B Williams *op. cit.* pp.194-201.

⁴² Williams B, 1995, *ibid*, p.193. Williams cites Martin M, 1981, "What really makes professional morality different", *Ethics* 91, pp.619-25, as a proponent of this view (see footnote 2, p.201).

⁴³ For the requirement that professional ethics needs to be justified in this way see, for example: NGE Harris, "Professional codes and Kantian duties" in RF Chadwick (ed), 1994, **Ethics and the Professions**, Aldershot, Avebury, (pp.104-115). RM Veatch, "Professional Medical Ethics: The Grounding of Its Principles", 1979, *The Journal of Medicine and Philosophy*, vol.4 no.1 pp1-19. I discuss these articles in chapter 3.

⁴⁴ T Nagel (*op. cit.*), makes a very similar point: "Public [professional] morality becomes trivially derivable from individual [general] morality if individual morality is extended to include all true propositions of the form, 'if the individual is acting in public role X, he may (or must) do Y', and so forth. *This is compatible, however, with there being no connection between the grounds of the public and private requirements.*" (1979, p.78, *italics mine*).

⁴⁵ See for example: A MacIntyre, 1985 (second edition), *After Virtue*, London, Duckworth. C Taylor, 1989, *Sources of the Self*, Cambridge, Cambridge University Press. C Taylor, "A Most Peculiar Institution", in JEJ Altham and R Harrison (eds) 1995, *World, Mind, and Ethics: Essays on the ethical philosophy of Bernard Williams*, Cambridge, Cambridge University Press. B Williams, 1985, *Ethics and the Limits of Philosophy*, London, Fontana.

⁴⁶ For theories that support this approach see for example: RM Veatch, "Professional Medical Ethics: The Grounding of Its Principles", 1979, *The Journal of Medicine and Philosophy*, Vol.4, No.1, pp.1-19. NGE Harris, "Professional Codes and Kantian Duties", in RF Chadwick (ed), 1994, *Ethics and the Professions*, Aldershot, Avebury, pp.104-115.

⁴⁷ See: T Nagel, 1979, *Mortal Questions*, Cambridge University Press, Cambridge. T Nagel, 1986, *The View From Nowhere*, Oxford, Oxford University Press. S Scheffler, 1982, *The Rejection of Consequentialism*, Oxford, Clarendon Press. M Stocker, "The Schizophrenia of Modern Ethical Theories", 1976, *The Journal of Philosophy*, Vol.73, pp.453-66. B Williams, 1981, *Moral Luck*, Cambridge, Cambridge University Press. B Williams, 1985, *Ethics and the Limits of Philosophy*, London, Fontana. S Wolf, "Moral Saints", 1982, *The Journal of Philosophy*, vol.79, pp.419-39. Notably, all these authors see the space required for personal attachments and interests as being essentially a *non-moral* space, i.e. as an area of individual action not constrained by moral obligations. Scheffler suggests that this non-moral space can be justified from the moral perspective itself, the other authors suggest that no such justification is either forthcoming or necessary.

⁴⁸ Nagel (1979, chapter 6), indeed, distinguishes between private and public morality precisely on the grounds of the thoroughgoing emphasis on impartial restrictions that attach to *every* action in a public role. Eliot Freidson, in a similar vein: "To liberate it from material self-interest is the most radical way by which professionalism could be reborn." (op. cit. 1994, p.10).

⁴⁹ See, N Harris, 1989, *Professional Codes of Conduct in the United Kingdom: A Directory*, Mansell, London. He notes that standardly clauses are prefixed by phrases demanding that members "shall", "must", "are obliged to" do some duty.

⁵⁰ The claim that codes of conduct represent an example of the dominance of the deductive paradigm is given support by the research of Nigel Harris, 1994, *Professional codes and Kantian Duties*, in Chadwick R (ed), *Ethics and the Professions*, Avebury, Aldershot. Harris analysed the codes of nearly 150 professions in Britain (recorded in Harris N, 1989, *Professional Codes of Conduct in the United Kingdom: A Directory*, Mansell London.) and concluded that the best interpretation of codes of conduct is in terms of Kantian ethics (p.105). Kantian ethics, of course, represents a classic example of the deductive paradigm; all moral duties are derived from the categorical imperative which requires that all moral duties and actions must be universalisable.

⁵¹ This example brings out another important difference between the deductive paradigm and the contextualist conception. In both cases impartiality in the distribution of services is a defining feature of the professional context. However, whereas according to the deductive paradigm impartiality is secured by applying (neutral) universal principles to every action, according to the contextualist conception impartiality is defined directly in relation to the goods at stake (in terms of who merits what according to the logic of the good being distributed).

⁵² I have in mind here J Dancy's definition of particularism: "Particularism is at its crudest the claim that we neither need nor can see the search for an 'evaluative outlook which one can endorse as rational as the search for a set of principles'." (J Dancy, 1993, *Moral Reasons*, Oxford, Blackwell, p.56. Moral judgement must instead rely upon the individual's sensitivity to the *particular* features of the *context* before her.

⁵³ R Scruton, 1996, *An Intelligent Person's Guide to Philosophy*, London, Duckworth, p.136.

⁵⁴ "one of the features of the concept of a virtue ... is that it always requires for its application the acceptance for some prior account of certain features of social and moral life in terms of which it has to be defined and explained" (A MacIntyre, op. cit. p.186).

CHAPTER 2

ETHICAL THEORY: MORAL THEORY AND CONTEXTUALISM

"No doubt most decent people disagree with Hitler and Pol Pot on many matters of fact as well as ethics, but it seems likely that, even if the factual differences were cleared away, some utterly fundamental ethical differences would remain. Are we then content to say that there is no further basis for judging between us and the Nazis or the Khmer Rouge? Is there no sense in which our opposition to the murder of millions of people is, when compared to any possible defence of such policies, better grounded, more rational, more defensible, more justifiable- in one word, right?"
(Peter Singer, *Ethics*)

"I shall argue that philosophy should not try to produce ethical theory, though this does not mean that philosophy cannot offer any critique of ethical beliefs and ideas. I shall claim that in ethics the reductive enterprise has no justification and should disappear."
(Bernard Williams, *Ethics and the Limit of Philosophy*)

"...it is not profitable for us at present to do moral philosophy."
(G.E.M Anscombe, *Modern Moral Philosophy*)

Introduction

In reaching this chapter I have been concerned solely to lay out the case for regarding professional ethics as a distinctive area of ethics meriting consideration in its own right. As such I attempted in chapter 1 to distinguish the "special circumstances" of professional practice from other occupational forms (and other contexts of action generally), and very briefly sketched two ways in which the distinctiveness of professional ethics can be accounted for philosophically. In the Introduction I identified the various forms and styles of reasoning uncovered by the empirical survey of ethical thinking and practice in nursing in order to provide data with which to test the alternative accounts of professional ethics. From this chapter onwards the task is to subject that data to philosophical theoretical analysis.

However, as I noted in chapter 1 just what a philosophical theoretical analysis of ethics is is itself a subject of great debate, and inevitably what one takes philosophical ethics to be in

general determines, to a very significant extent, one's account of a specific phenomenon like professional ethics. Failure to recognise the full significance of this has played, I shall claim, an influential role in the dominance of the deductive paradigm in applied (professional) ethics. Accordingly, the task of this chapter is to pick up from where I left off at the end of chapter 1 and provide a fuller account of the main alternative conceptions of philosophical ethics. In the course of doing this I shall identify the key issues which will focus the debate about the nature of professional ethics in the chapters that follow.

.....

I

Ethical Theory

(i) Meta-ethics

Bernard Williams provides the following definition of an ethical theory:

"An ethical theory is a theoretical account of what ethical thought and practice are, which account either implies a general test for the correctness of basic ethical beliefs and principles or else implies that there cannot be such a test."

(B Williams, 1985, *Ethics and the Limits of Philosophy*, London, Fontana Paperbacks. p.72)

Here Williams incorporates into his definition two general elements that any philosophical ethical theory must contain. These elements one might label, following tradition, the "meta-ethical" and the "normative" (or "substantive") components of an ethical theory¹. The meta-ethical element of an ethical theory is represented by a theoretical account of what ethical thought and practice are. Its concern is with establishing the meaning and logic of our ethical discourse and behaviour rather than with establishing any truths about what particular principles or values one should incorporate into a morally good life. The latter task falls upon the normative or substantive part of an ethical theory. *Very important differences in conceptions of philosophical ethical theory emerge at this point and focus centrally upon what a meta-ethical analysis of our ethical intuitions implies about what (if*

anything) a substantive ethics should contain in terms of values, principles and tests for correctness. However, before I consider these differences it is important to make some further points about the use of the term "meta-ethics".

Williams himself actually avoids distinguishing between the "meta-ethical" and "normative" elements in his definition. As he correctly points out the term "meta-ethics" was used by certain philosophers (usually of positivistic persuasion, for example, AJ Ayer and CL Stevenson²) earlier in this century to identify a type of philosophical reflection upon the ethical which they claimed had no substantive moral implications whatsoever. Now, this was not merely the idea that meta-ethical thought itself does not establish any substantive conclusions. Rather, it is the stronger assertion that meta-ethical reflection by its very nature is non-substantive and can yield no substantive ethical conclusions of any form. In effect "meta-ethics" was a term they reserved for an entirely "philosophical" activity where such philosophical reflection is conceived as a value free, purely theoretical and descriptive enterprise. Under this sort of conception philosophy and philosophers appeared to have nothing useful at all to say about ethical conduct. However, Williams is undoubtedly right when he says:

"...it is now obvious (once again obvious) that what one thinks about the subject matter of ethical thought, what one supposes it to be about, must itself affect what tests for acceptability or coherence are appropriate to it; and the use of those tests must affect any substantive ethical results."

(B Williams, *ibid*, p.173)

Indeed an analysis of meta-ethical theories suggest that meta-ethical judgements can and do have an impact upon how we understand the nature and role of moral values; about what we take moral values to represent and what this suggests about how we should go about formulating our ethical judgements. For example: a meta-ethical theory supporting an analysis of ethical judgements as judgements about individual character, say, in terms of the virtues, might support a style of reasoning which begins from a conception of the good life

(as opposed to a conception based upon what is right) which in turn leads to specific ethical judgements in the light of the good (as opposed to establishing a set of obligations)³.

With this lineage it is perhaps no surprise that Williams thinks there is little point in preserving the term "meta-ethics" and suggests we should instead just talk about ethical theory generally as it is defined by him in the quote above. However, while I agree wholeheartedly with Williams' criticisms of this particular interpretation of meta-ethics I think a reconstructed understanding of the meta-ethical, which rejects the detached perspective with which writers like Ayer and Stevenson identified it, and which clarifies its substantive links with actual ethical practice, can do some very useful (philosophical) ethical work⁴. A meta-ethics thus reconstructed represents, I would argue, that part of ethical thought (in general) which is concerned with philosophical reflection upon the substance and form of ethical thinking and behaviour and which, while connected with substantive first order judgements, is not concerned directly to put forward a specific set of first order judgements. The point of carving up ethics in this way is not to identify some naturally distinct boundaries within the field of ethical phenomena and thought but rather to serve the particular interest of the theorist in identifying the common points of agreement and departure that are generated within and across substantive ethical viewpoints which require some sort of philosophical interpretation, explanation and guidance. In effect this understanding of meta-ethics shares with the traditional conception of that term a concern to situate the philosophers' role in contributing to ethical thought⁵. It departs from the tradition, however, in situating that role within the substantive productive processes of ethical life as opposed to a situation somewhere on the outside of ethical life looking in.

The interpretation, explanation and guidance involved in fulfilling the meta-ethical role of the philosopher focuses largely upon two questions. First, "How is the ethical actually recognised and instantiated by particular individuals and groups in empirical reality?". Secondly, "How, in the light of reflection upon the first question, can (or should) modifications be made to the empirical reality of the lived ethical existence of those

individuals and groups?". It is important to note that in answering the second question the concern is not in any direct sense to put forward suggestions about what specific substantive changes an individual or group should make to their particular set of value judgements, for example, that they should liberalise abortion laws, ban invitro fertilisation, promote the two parent family etc.. Rather, the concern is more generally about making explicit the nature or form of the ethical reasoning which best explains the set of intuitions and practices concerned and showing where this seems to generate conflicts with particular ethical judgements they make or the practices in which they engage. *The guidance the meta-ethician offers, then, concerns the actual moral reasoning process itself*, suggesting ways in which the agent can improve or "perfect" her reasoning in order that she is able to identify her moral obligations and resolve conflicts that arise⁶. As such, meta-ethics on my conception attempts to describe the general *form* that ethical reasoning actually does, or should, take. Thus, depending upon what sort of epistemological, metaphysical and moral ideas and presuppositions underlie the particular conclusions of meta-ethical analysis it may indeed entail specific changes when applied to a specific context, but in its full philosophical mode it is essentially concerned with the form of the reasoning that leads to specific conclusions. The task of practically cashing out the specific consequences which arise from adopting a particular form of ethical reasoning is not the primary concern of the meta-ethicist. In the production of ethical life there is a division of labour and the distinctively philosophical task of the meta-ethician does not carry through to a distinctively philosophical task of practical application. The practical application of meta-ethical analysis in which the specific set of ethical values of a society is generated is a task for all the relevant members of the community concerned. In so far as philosophers contribute to this specific task they do so primarily as participant members of the community and not purely as specialists in philosophical ethical analysis⁷.

The thesis I present here provides a good example of the distinctions I am attempting to make: my concern in this work is not to produce a specific set of first order principles and values which represents what a professional nurse ethically should do in the variety of

actual situations she confronts in working practice⁸. Rather, my concern is with the type of moral reasoning process that the nurse should engage in. In examining the particular substantive ethical views of professional nurses and analysing them in the light of ideas of ethical theorists I am attempting to derive conclusions about how they do and how they might enhance their recognition of the ethical. My aim is to present a picture of practical moral reasoning that arms the nurse with the conceptual and theoretical resources to determine for herself what is ethically demanded of her professionally. More generally, my aim is not only to assist nurses in establishing their particular substantive ethical concerns, but, insofar as the example of nursing represents an example of the more general concept of a professional practice, also to assist other sorts of professionals in establishing their specific ethical concerns. *My interest, then, is with establishing conclusions largely about how to do ethics rather than directly with what to think ethically about some particular moral problem.* As such I am tempted to describe the current thesis as an attempt to provide a meta-ethical foundation of applied /professional ethics. With these qualifications about my use of the term "meta-ethics" in place I can return to the issues raised at the point of departure into the previous digression.

(ii) Two Styles of Ethical Theory

I claimed above that *very important differences in conceptions of ethical theory emerge at the point where meta-ethical reflection generates implications for substantive ethical practice.* I argued further that it is at this point that philosophical (meta-ethical) analysis finds its distinctive role in the collective production of ethical life. What these two propositions together imply is that *the key philosophical issue with which the philosopher working in the field of applied ethics must engage is the problematic relationship of theory to practice.* Accordingly it is against the background of this general question that most of my comments in the present work should be viewed. *In what follows I shall claim that at the interface of theory and practice meta-ethical reflection generates substantive implications that take on one of two general forms.* In one form ethical theory contains a sub-theory, what I shall label distinctively as "Moral Theory", which, briefly described,

provides a set of universal principles and general axioms which justify or entail a systematic set of rules or duties from which particular moral judgements are to be deduced⁹ (in chapter 1 I described this as the "deductive paradigm"). In the other form of ethical theory Moral Theory is absent and instead an account of what constitutes a good or worthwhile life is either explicitly stated or implicitly presupposed. In this second form the notion that there are a systematic set of universal principles, axioms, duties, and rules from which particular ethical judgements can be deduced or justified is explicitly rejected and replaced by an account of the good in which situated practical wisdom (what Aristotle called phronesis) forms the heart of a non-rationalistic, account of ethical decision making¹⁰ (in chapter 1 I described this as the "contextualist" approach). This distinction between two different approaches to ethical theory represents one of the most crucial distinctions in applied (professional) ethics, for it should be apparent already that which of the two forms proves to provide the correct account of the relation of theory to practice will naturally be of the first importance for the project of providing philosophical guidance for the ethical practice of professionals (among others). For reasons that will become apparent shortly I shall label the first form of ethical theory "The Moral Theory Approach", and the second form of ethical theory "Contextualism": One might schematically represent them as shown in figure 3 (overpage):

(Figure 3)

ETHICAL THEORY I

THE MORAL THEORY APPROACH

INTUITIONS → META-ETHICS → MORAL THEORY → PRACTICAL ETHICS

ETHICAL THEORY II

CONTEXTUALISM

INTUITIONS → META-ETHICS → ACCOUNT OF THE GOOD → PRACTICAL ETHICS

Some examples of theories that exemplify these different forms should help clarify what I am attempting to identify as the crucial structural divergence in their respective approaches.

(ii.a) The Moral Theory Approach

In the first form of ethical theory the substantive implications of meta-ethical reflection upon our moral intuitions are concentrated into a Moral Theory which, as I have just mentioned, consists of a systematic set of universal principles and general axioms justifying or entailing rules or duties which are applied (apriori) to particular circumstances (as such this represents the most literal interpretation of the term "applied ethics"). A good example of an ethical theory that takes this form is the utilitarian theory advanced by Henry Sidgwick in his *The Methods of Ethics* (1962, 7th ed, London, Macmillan). Sidgwick understood the ethical intuitions of common-sense morality to be largely correct but recognised that as they existed as a part of the everyday currency of social commerce they could yield no clear set

of principles which would be suitable to provide justification or guidance in new or different cases.

"Can we then, between this Scylla and Charybdis of ethical inquiry, avoiding on the one hand doctrines that merely bring us back to common opinion with all its imperfections, and on the other hand doctrines that lead us round in a circle, find any way of obtaining self-evident moral principles of real significance? It would be disheartening to have to regard as altogether illusory the strong instinct of Common Sense that points to the existence of such principles, and the deliberate convictions of the long line of moralists who have enunciated them. At the same time, the more we extend our knowledge of man, ... the less disposed we are to believe that there is any definite code of absolute rules, applicable to all human beings without exception."

(H Sidgwick, 1962 (7th edition), London, Macmillan. p.379)

However, he claimed that we can indeed establish "that there are certain absolute practical principles, the truth of which, when they are explicitly stated, is manifest...". Sidgwick argues that philosophical (meta-ethical) reflection upon our common sense intuitions could provide the grounds for establishing a principle or set of principles "...more absolutely and undeniably true and evident, from which the current rules might be deduced, either just as they are commonly received or with slight modifications and rectifications"¹¹. The first principle he tries to establish in this way is what he describes as the familiar principle of the "Golden Rule" - "Do to others as you would have them do to you."¹² Sidgwick notes that such a principle is not typically formulated in this abstract and universal way but is repeatedly recognised and expressed contextually in the particular situation of two individuals relating to each other in some form of social intercourse. Philosophical analysis of such instances, however, enables us to see that what underlies the authority we attribute to the common sense moral intuition is indeed a self-evident universally applicable principle. Sidgwick recognises that the principle in itself is insufficiently determined to provide complete guidance as to what to do in each new instance in which it must be acknowledged. It provides guidance insofar as to "...throw a definite *onus probandi* on the man who applies to another a treatment of which he would complain if applied to

himself;..." (ibid, p.380). Naturally, he argues, no principle at this level of generality can anticipate in advance all the possible scenarios of social interaction or prescribe the vast range of specific acts which people might possibly perform therein: he notes, for example, that applied to the sphere of legal justice the principle incontestably demands impartiality in the application of general rules, what it cannot determine, however, is which particular rules should be impartially applied. Thus, what is beyond question, according to Sidgwick, is that the principle must indeed be acknowledged in any exchange between individuals, and the particular substantive content of any social exchange must represent a particular expression of the general principle. It is in this sense that the principle is apriori, universal and practical.

The second fundamental principle that Sidgwick attempts to demonstrate is the principle of Prudence which states that it is rational to pursue the good of one's life as a whole, where this means that "... the mere difference of priority and posteriority in time is not a reasonable ground for having more regard for the consciousness of one moment than for that of another." (ibid, p.381). Again Sidgwick seeks to show how this universal principle can be derived from philosophical reflection upon common-sense moral intuitions. A typical everyday expression of it is "...that a smaller present good is not to be preferred to a greater future good" (ibid, p.381). He notes further that this is not simply constrained to a purely hedonistic calculus but is applied to any other interpretation of "one's own good" in which particular episodes are considered as a part of a whole lifetime. From these sorts of observations Sidgwick claims to show that the principle of Prudence - an impartial concern for all parts of one's conscious life - is demonstrated to be self-evident, practical, and universally applicable.

The third fundamental principle that Sidgwick seeks to demonstrate as self-evident is the principle of Universal Benevolence. Relying on the same observations discussed in relation to the principle of Prudence Sidgwick argues that just as we moved in that case from the consideration of particular goods to the integration of those goods into consideration of

"...the Good on the Whole of a single individual," so too can we move by self-evident reasoning to the integration of the good of each whole individual into the Universal Good:

"... by considering the relation of the integrant parts to the whole and to each other, I obtain the self-evident principle that the good of any one individual is of no more importance, from the point of view (if I may say so) of the Universe, than the good of any other, unless, that is, there are special grounds for believing that the more good is likely to be realised in the one case than in the other. And it is evident to me that as a rational being I am bound to aim at good generally, - so far as it is attainable by my efforts, - not merely at a particular part of it. From these two rational intuitions we may deduce, as a necessary inference, the maxim of Benevolence in an abstract form: viz. that each one is morally bound to regard the good of any other individual as much as his own, except in so far as he judges it to be less, when impartially viewed, or less certainly knowable or attainable by him."

(H Sidgwick, *ibid*, p.382)

With this third fundamental principle in place Sidgwick claims to have demonstrated that Utilitarianism is the Moral Theory that best accounts for the common-sense moral intuitions that are current in society and which further systematises those intuitions according to principles that enable us to reject, amend, or confirm them, and generate new rules of moral behaviour¹³.

Now it is at once noticeable that the course of meta-ethical reflection on common-sense moral intuitions could not carry Sidgwick to this "systematising" conclusion with quite the ease that he seems to suggest. There are undoubtedly problems with his depiction of common-sense morality (which at best is highly selective), and with his conception of the meta-ethical which is underpinned by some disputable epistemological, metaphysical and, indeed, moral, ideas and presuppositions¹⁴. It is very much these ideas and presuppositions which Sidgwick shares with many other Moral Theorists that I shall subject to criticism later. However, my direct concern in this chapter is simply to identify the form and not challenge the content of his reasoning. Suffice it to say, then, that his ethical theory

exemplifies the structure of The Moral Theory Approach: he begins with common-sense moral intuitions, and subjects these to meta-ethical reflection which he believes demonstrates the existence of fundamental underlying universal principles, these principles are then systematised into a Moral Theory, in this case a form of Utilitarianism, and this in turn is demonstrated to have application to all practical ethical situations. Thus Sidgwick's theory represents that form of ethical theory which moves from intuitions to meta-ethical analysis to development of Moral Theory to practical application.

It is crucial to notice that in describing ethical theory at this level, in terms of its general form, I am grouping together a number of ethical theories that in actuality contain substantive Moral Theories that are diametrically opposed at that level. Thus I would argue that as well as various forms of Utilitarianism the various forms of Kantianism also take the same form as The Moral Theory Approach. It might be thought that the thorough-going apriori nature of Kant's theory coupled with his "distrust" of deriving moral principles from the "particular constitution of human nature"¹⁵ does away with reflection which draws upon moral intuitions. However, Kant's theory depends heavily upon the first section of the "Groundwork of the Metaphysics of Morals" in which he supports his view of the unconditional good of the good will by drawing upon ordinary common-sense morality¹⁶. It is only from this that he is able to move on to build up a Moral Theory specifying duties based upon application of the categorical imperative. Thus Kant (and the Kantian) also moves from moral intuitions to meta-ethical analysis to Moral Theory to practical application. It should be clear, then, that my point of entry into the debate about the nature of applied (professional) ethics is not the standard approach, which compares and contrasts various forms of Moral Theory, in particular Utilitarianism and Kantianism. That Kantianism and Utilitarianism should share the same form as ethical theories should come as no surprise when it is recognised that they share a number of crucial meta-ethical ideas and presuppositions¹⁷. I shall discuss these shortly, but first I will mention very briefly an example of an ethical theory that takes the form of Contextualism.

(ii.b) Contextualism

Aristotle's ethical theory represents a classical example of Contextualism (see his "Nicomachean Ethics"), indeed, his theory represents a particularly strong form of Contextualism because he explicitly rejects the idea that ethical reflection can yield what I have called Moral Theory (i.e. a set of universal principles from which one can deduce practical moral conclusions). His starting point is to locate his discussion of ethics clearly and unambiguously within the realm of the practical life of the individual, who seeks an answer to the general question, "What is the good for man?" (1976, **Nicomachean Ethics**, London, Penguin, 1094a22-b12). He does this by distinguishing between three distinct (although related) realms of human activity and knowledge: science (episteme), production (techne), and practical action (phronesis). The realm of science concerns absolute or eternal knowledge, that which "... cannot be otherwise than it is,..." (1139b18-36) and the sort of knowledge and intellectual virtue suitable to this realm is "episteme" which is knowledge of universal truths and first principles. The realm of production is concerned with the art of, "...bringing something into being, and the practice of an art is the study of how to bring into being something that is capable either of being or of not being,..." (1140a1-23). "Techne", the knowledge and intellectual virtue appropriate to this art, is thus concerned with the pragmatics of production, which concerns neither, universal truths (episteme), nor knowledge of what constitutes a good life (phronesis). The realm of practical action concerns the question about what sorts of activities and actions are, "... conducive to the good life generally." (1140a24-b12), and "phronesis", practical wisdom, is the type of knowledge and intellectual virtue appropriate to determine which particular acts are accordingly felicitous. Like techne phronesis is not concerned with knowledge that is universal (invariable) but with that which is subject to variation (which is why it involves *deliberation* not deduction). However, it is unlike techne in that the activity or practice of techne is absorbed entirely in the item of production (i.e. the technical skill involved aims at an end other than itself (1140a24-b12)), whereas phronesis concerns the practical evaluation

of acts that constitute "doing well" which itself just is the aim or end of phronesis. The reasoning involved in techne is always instrumental and seeks to discover the best means to a given end, whereas the reasoning involved in phronesis is fundamentally concerned with the evaluation of the ends themselves.

From these observations Aristotle argues that ethical knowledge, knowledge of how to behave according to right reason, cannot be formalised into universal principles and rules because "in a practical science [ethics], so much depends on particular circumstances that only general rules can be given" (1103b26), and these in turn would always be subject to revision or refutation by the occurrence of future situations in which it could be shown that they fail. Not only did he recognise that "instances of morally fine and just conduct ... involve so much difference and variety...." (1094b13), but also "instances of goods involve a similar kind of variety" (1094b13). As such Aristotle concluded that "... in discussing subjects, and arguing from evidence, conditioned in this way, we must be satisfied with a broad outline of the truth; that is, in arguing about what is for the most part so from premises that are for the most part true we must be content to draw conclusions that are similarly qualified." (1094b13). Thus "... *agents are compelled at every step to think out for themselves what the circumstances demand...*" (1103b26: italics mine). It should be clear, then, that Aristotle is explicitly rejecting what I have labelled Moral Theory: when he suggests that each individual is "compelled at every step to think for himself" he is rejecting the idea that an individual has recourse to a system of universal principles and rules from which it is possible to deduce what to do in any given situation. Thus ethical decision making is not a matter of discovering a pre-existing (universal) rule under which to subsume a particular act, but is instead an activity in which the deliberative action taken by the individual expresses her conception of the good generally and the relation of her own individual good to the general good. Put simply, the focus of the question that motivates the deliberative process moves from, what it is right to do, to, what it is good to be. Thus while rules (of thumb) may still play some part in the moral deliberation of the Aristotelian agent no rule in itself can determine the correctness of any particular decision, each rule will stand

or fall in so far as the conception of the good which underlies it (and which the rule seeks to instantiate) stands or falls.

The rejection of Moral Theory does not mean, of course, that Aristotle abandons the moral agent to a life of solitary and arbitrary ethical speculation. Indeed, from the outset it is clear that Aristotle takes very seriously the fundamentally practical nature of ethics that he has described and is determined that the **Nicomachean Ethics** should not merely describe what good individuals do but also inspire and direct us to actually act as good individuals do. Accordingly he provides an account of an ethical life in which moral education (habituation) in the virtues plays a central role in schooling the practical wisdom (phronesis) of each individual in order that they should develop the ability to exercise contextually sound moral judgement "Moral virtues, like crafts, are acquired by practice and habituation" (1103a14):

"... the virtues ... we acquire by first exercising them, just as happens in the arts. Anything that we have to learn to do we learn by the actual doing of it: people become builders by building and instrumentalists by playing instruments> Similarly we become just by performing just acts, temperate by performing temperate ones, brave by performing brave ones."

(Aristotle, *ibid*, 1103a14-b1)

Put very briefly, then, a morally good person is an individual who has been immersed in society and has developed through guidance and habituation the dispositions of character (the virtues) which along with phronesis enable her to exercise appropriate moral judgement in each particular instance in which it is required.

It should be clear from what has just passed that Aristotle's ethical theory exemplifies the structure of ethical theory identified as Contextualism above. Aristotle moves from the observation of everyday intuitions, to meta-ethical analysis of those intuitions from which he discerns that no universal principles are forthcoming and instead claims that an account of the good is presupposed (and manifested) in our actions, the articulation of this good in

turn enables us to reflect critically on the practical ethical problems with which we continue to be confronted.

Much more could, of course, be said about both Aristotle's and Sidgwick's particular accounts. However, enough should have been done to show how their respective theories represent the general ethical theory forms of The Moral Theory Approach and Contextualism. And it should be clear even from these brief sketches that which of the forms of ethical theory one adopts is going to have profound implications for one's understanding of how to proceed in professional ethics and applied ethics generally.

Now, while these two forms of ethical theory represent radically different conceptions of what a successful theory should look like there must be - for *genuine* disagreement about what constitutes the right approach to ethical decision making to be possible- some form of common understanding of what represents the basic question(s) for ethical theory, which in turn derives from the most basic and commonly accepted facts or presuppositions about morality and moral decision making¹⁸.

(iii) The Moral Point-Of-View and the Basic Question for Applied Ethical Theory

Naturally there is some disagreement about what the presuppositions are that underlie the very possibility of moral reasoning. However, I wish to argue that there is a fundamental configuration of the moral point-of-view which contains two necessary aspects that all authors must in some way presuppose. Roger Scruton puts it as follows:

"Morality, in its fundamental meaning, is a condition upon practical reasoning. It is a constraint upon reasons for action, which is felt by most rational beings and which is, furthermore, a normal consequence of possession of a first-person perspective. Morality must be understood, therefore, in first-person terms: in terms of the reasoning that *leads* to action."

(R Scruton, 1986, *Sexual Desire*, London, Weidenfeld and Nicolson, p322)

In essence what Scruton refers to as the first-person perspective is the simple fact that when any individual is faced with a situation in which she must act, the practical reasoning involved always confronts her with the question "what should *I* do?". In providing an answer to the question "what should *I* do?" *she* provides *herself* with the motivation to act accordingly¹⁹. So, a stretch of practical reasoning is always the reasoning of some particular "I", and seeks to answer a practical question faced by some particular "I". This point seems to me to be irrefutable; liberal individualists and communitarians alike must accept that particular episodes of practical reasoning are grounded in the dispositions of particular individuals. Indeed, Bernard Williams notes that:

"...the primacy of the individual and of personal dispositions is a necessary truth - necessary, at least, up to drastic technological changes such as cloning, pooling of brainstores, and so on. This is the sense in which even radical structuralist descriptions of society, whatever they may say, suppose there to be individuals who acquire certain dispositions and aims and express them in action."

(B Williams, 1985, *Ethics and the Limits of Philosophy*, London, Fontana Paperbacks, p.201)

The first necessary aspect of the moral point-of-view, then, concerns the first-person perspective of practical reasoning within which any moral judgement and action must be expressed.

Now, leaving aside the possibility of adopting some sort of amoral position (see footnote 10 above), any stretch of practical reasoning must be constrained or guided by concerns which in some important sense lie outside of one's own particular personal concerns: this is one reason why they represent a constraint or form of guidance. Thus in answering the question "what should I do?" my answer is both, an answer to a question that arises specifically for me and is specifically designed to motivate me (the first-person perspective), and an answer that is constrained or informed by moral considerations that are (in a sense to be established) external to me. *Thus the second necessary aspect of the configuration of the*

moral point-of-view is the consideration of concerns that are generated externally, which one might label (with qualification) the "third-person perspective"²⁰. Put in these terms it becomes easy to see why the development of a coherent ethical theory, and, indeed, simply living an ethical life, turns out to be the difficult task that it is, for within the moral point-of-view are necessarily united two perspectives, the first-person and the third-person, which prima facie seem to represent two (potentially) conflicting perspectives.

Thus we are presented with what I shall label as the "Basic Question for Applied Ethical Theory":

"How can a stretch of practical reasoning incorporate the fact that it needs to reflect reasoning that is specifically mine (and motivate me as such) yet at the same time reflect standards that transcend my own specific concerns?"

This question should be seen as a more specific adaptation of the key issue I identified above on page 51 which concerned the relation of theory to practice, for an answer to the Basic Question must provide a plausible philosophical theory or account of how an individual's practice can be justifiably adapted or constrained by external (moral) considerations. The force of this question is very apparent in the world of professional ethics because the adoption of a specific social role explicitly introduces the professional to a set of standards that are essentially established quite independently of herself but which must be incorporated into the first-person perspective of her practical reasoning. But it is also clearly a question implicit in the most private acts of moral decision making, and even if it is true that theorists do not always explicitly refer to this question as the Basic Question, it is true, I shall argue, that it is always a central question that underlies any ethical theory that seeks to address the issue of the relation of theory to practice. Thus, for example: Ethical Egoists attempt to answer the question by conscripting moral constraints directly into the service of the desires of the first-person perspective. Kantians seek an answer in uniting the third-person (moral) and the first-person perspective within the perspective of

pure rationality itself, which at once incorporates autonomous self-legislation and universal principle. Utilitarians attempt to answer the question by identifying the single good of pleasure (or happiness), which is at once a specifically personal and universal good. Aristotelians invite the individual to realise their personal good by achieving human excellence in accordance with standards "objectively" described in an account of the good life generally. Other authors despair of the "schizophrenia" involved in trying to unite the first and third personal perspectives²¹, or decry the "sainthood" required to bring first-personal desires under the control of third-personal constraints²², and seek instead to justify the existence of a space for individual action free of moral constraints²³. What I have called the Basic Question seems, then, to be quite fundamental and I want to suggest that ultimately it is a satisfactory answer to the Basic Question that represents the final validation of any theory. So, in describing and assessing the rival claims of The Moral Theory Approach and Contextualism I shall focus centrally upon the ways in which the Basic Question is addressed. In particular I shall seek to uncover what resources the rival theories make available for providing suitable answers to the practical problems faced by professionals in which the inherent tensions of the Basic Question are made manifest. Naturally, I accept there are a number of possible alternative questions around which I could have constructed the discussion which will concern the rest of this thesis. However, I hope it is apparent that the Basic Question represents a particularly apposite question for the present thesis in that it brings to the fore a central problem for any theory in applied ethics, namely, the relation of theory to practice. I hope to show in what follows that in focusing upon the Basic Question it is possible to illuminate some of the more profound and complicated problems that obstruct a proper understanding of the phenomena of professional (applied) ethics.

.....

As this chapter is pivotal in this thesis it is perhaps worth briefly summarising the main points I have discussed so far. First, I located the distinctive contribution of the philosopher to applied ethics as a provider of meta-ethical analysis of ethical phenomena. Secondly, I

described meta-ethical analysis in a way, which dismisses the implausible idea that it has no impact upon substantive practice, and accordingly identified the key issue for meta-ethical analysis in applied ethics as the problematic relationship of theory to practice. Thirdly, I identified and distinguished between two main approaches to ethical theory which represent fundamentally different ways in which the theory/practice problematic is addressed (The Moral Theory Approach and Contextualism). Fourthly, I established the common ground upon which these two approaches to ethical theory can be assessed: in this respect I identified the basic configuration of the moral point-of-view (which united first-person and third-person perspectives in an inherently tense relationship), and, connectedly, identified what I labelled the "Basic Question for Applied Ethical Theory".

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II

The Rejection of The Moral Theory Approach

Introduction

It is ethical theory in the form of the Moral Theory Approach that represents what has been appositely labelled the "dominant tradition" or "dominant conception"²⁴, for it has indeed represented the dominant form of ethical theory at least since the Enlightenment²⁵. This fact in itself suggests that philosophers and others have found much in this approach which is at least *prima facie* plausible or simply inevitable. However, I shall argue that The Moral Theory Approach represents a fundamentally misguided conception of the ethical. Calling upon the empirical research outlined in the previous chapter and identifying the theoretical issues that arise out of these data along with the works of philosophers I shall attempt to show that *The Moral Theory Approach represents both a radically distorted description of our actual ethical practices and an implausible account of how actual ethical practice might be perfected or improved*. I shall seek to show that the constraints of Moral Theory render impossible any satisfactory answer to the Basic Question. Thus, the Moral Theory Approach, I shall argue, cannot provide an adequate account of professional ethics.

Accordingly in the chapters that follow my strategy will be to attack the fundamental principles, ideas, and presuppositions upon which Moral Theory and The Moral Theory Approach are founded and in the process of doing that construct my own positive account in support of an ethical theory taking the form of the Contextualist Approach. But to carry out this task I must, of course, first identify what the main principles, ideas and presuppositions are that underlie Moral Theory, and it is with this preliminary task that the rest of this chapter will be concerned. However, just before I attend to this it is important to emphasise why the rejection of Moral Theory does not entail the rejection of ethical theory.

(i) The Distinction Between Ethical Theory and Moral Theory

In footnote 9 I stressed that my use of the capitalised term "Moral Theory" is used specifically to describe a sub-theory of ethical theory consisting of a systematic set of universal principles and general axioms justifying or entailing rules or duties from which particular moral judgements are to be rationalistically deduced (what I have described as the Moral Theory Approach is thus meant to identify an ethical theory in which Moral Theory is used to resolve the Basic Question). It follows, then, that I do not use the terms "ethical theory" and "Moral Theory" synonymously. I point this out for the obvious reason that many authors, and indeed many lay persons, interchange the terms unhesitatingly. Now while I shall use the terms "ethical" and "moral" as interchangeable in all other contexts, for example, as in the use of phrases like "ethical intuition" and "moral intuition", when I speak of Moral Theory I shall always be referring to the specific sub-theory of ethical theory as I have just defined it above. Understanding this is crucial as *my rejection of The Moral Theory Approach centres on the rejection of Moral Theory and this does not entail at all the rejection of ethical theory per se*. This point is particularly important because writers who reject Moral Theory are frequently described as anti-theorists, many, in fact, even apply that very appellation to themselves in their own work. However, I would argue that in virtually all instances their anti-theory is actually anti-Moral Theory, and need not at all involve rejecting ethical theory as such, in particular if ethical theory be articulated as some kind of contextualism. For example, Robert Louden makes the mistake of conflating anti-Moral

Theory with anti-ethical theory in his book "Morality and Moral Theory - A Reappraisal and Reaffirmation" (1992, New York, Oxford University Press). Louden accuses anti-theorists of trying to "... achieve [an] intended goal of ushering in a culture without moral theory where moral considerations have no dominant place in human life" (ibid, p.10). Yet the individuals Louden cites as anti-theorists, among them, Stuart Hampshire, Bernard Williams, Edmund Pincoffs, Stanley Clarke, John McDowell, et al. can in no way be described as philosophers where rejection of a certain form of Moral Theory anti-theory means that they see no dominant place for moral considerations in human life. Their writings certainly reject the idea that there can be any such thing as a coherent Moral Theory but equally their writings are marked by the comprehensive accounts they give of how moral considerations are incorporated into an individual's life, and how the recognition of the ethical can be further enhanced by rejecting Moral Theory and resorting instead to some form of Contextualism. Indeed, even Bernard Williams, who is explicitly anti-theory and probably represents the most sceptical of all the philosophers listed, makes quite clear that in rejecting a theoretical approach to ethics "...it is quite wrong to think that the only alternative to ethical theory [Moral Theory] is to refuse reflection and to remain in unreflective prejudice. *Theory and prejudice are not the only possibilities for an intelligent agent, or for philosophy.*" (1985, *Ethics and the Limits of Philosophy*, London, Fontana, p.112, emphasis mine)²⁶. The problem Louden has in recognising this stems from the fact that he finds distinguishing between [M]oral [T]heory and ethical theory, "...historically unpersuasive and too much of a strain on ordinary ways of speaking", thus he treats "the terms *morality* and *ethics* as synonyms." (op. cit. p.167, fn 20). But this just renders opaque the crucially important distinctions that the anti- [Moral] theorists wish to make and consequently leads Louden to see these philosophers as global sceptics as regards ethical theory, which is a patent falsehood.

(ii) The Principles and Presuppositions of The Moral Theory Approach

What, then, are the distinguishing features of Moral Theory? Unsurprisingly, different authors focus on different aspects and some include principles and axioms that others leave

out. However, I intend to isolate four attributes, which I will claim, are central to any Moral Theory. There are two core principles, and related to these, two core presuppositions (structural features) that are the mark of any Moral Theory.

The core principles are:

- a) The principle of universalizability.
- b) The principle of impartiality.

The core presuppositions (structural features) are:

- c) Commitment to a rationalistic procedure in moral argument.
- d) Prioritisation of conceptions of what it is right to do over conceptions of what it is good to be.

Each of these aspects will be discussed at length in the chapters that follow; however, a brief description of how they combine together should help focus the debate.

(ii.a) The principle of universalizability

This is first and foremost a *justificatory* principle and states that action according to a principle or rule or any sort of value judgement can only count as moral insofar as it is a principle or rule or value judgement that *any* other relevantly situated individual could or should act upon. Accordingly, it is also a principle that enables the individual to identify which principles and rules and value judgements are moral. (Kant points out, if an individual should ask herself if the maxim upon which she intends to act is a morally acceptable maxim she needs to ask herself if it is a maxim that she could will that all others could likewise act upon, if it is then it is identified as moral).

(ii.b) The principle of impartiality

This states that actions can only count as moral in so far as they reflect the reasons of a *neutral* agent. The particularities of an individual's life - her personal attachments to

particular individuals, projects, and desires - are for an agent who is in this sense "neutral" regarded as strictly irrelevant to morality. At many levels the principle of impartiality is virtually identical to the principle of universalizability, indeed, an impartially described rule will be a universal rule. Thus an attack on one of the principles seriously undermines the other. For example, if there are no universal principles it becomes difficult to see what would justify adopting a neutral perspective (indeed the very possibility would be suspect) and likewise if it proves impossible to adopt a neutral perspective it becomes difficult to see how we could arrive at universal principles. However, there are significant differences between the principles, most importantly, whereas the principle of universalizability is foremost a justificatory principle, *the principle of impartiality is foremost a principle of individual agency*, i.e. it directs and constitutes the actual rational process of arriving at universal judgements. Accordingly a defence or criticism of either of these two principles needs to proceed along different (although quite clearly connected) lines. In the case of universalizability the first concern must be with the very idea that morality is to be identified with a realm of universal maxims. In the case of impartiality the first concern must be with the very idea that moral agency, the process of moral decision making, can be subsumed under an impartialistic perspective.

(ii.c) Commitment to a rationalistic procedure in moral argument

Acceptance of universalizability and impartiality leads inevitably to the adoption of a rationalistic form of moral argument. There are two interrelated ways in which such argument is rationalistic. First, the *abstraction* from personal concerns entailed by adopting an impartial perspective means there is no alternative in moral reasoning other than an appeal to universal principles and rules. This in turn requires, secondly, that the principle or rule upon which an individual intends to act is statable in explicit terms (either by the individual concerned or else by someone else, as in "Government House Utilitarianism"). That is, *Moral principles and rules must be codifiable*: their content must be describable in terms that transcend any *particular* interpretation or application. The combination of abstraction and codifiability means that Moral Theory is thoroughly rationalistic in its

procedure. It proceeds by the identification and statement of abstract principles and rules, which form the premises and conclusions of arguments structured according to the deductive paradigm. The motivation for doing this, according to Onora O'Neill, is to "... reach beyond assertion to argument." ²⁷. In order to "convince", she claims, a moral argument must appeal to principles and rules that can (or should) be assented to by rational agents on rational grounds alone.

It follows from this that a whole variety of common ways of "arguing" for, or presenting, a moral view are ruled out. In particular, all those forms of expressing a moral position where we attempt to get another to *see the moral point of* what we did (or what we intend to do) using descriptions that *appeal to (and attempt to extend) her moral imagination and sensitivity* are considered suspect (unless they can be shown ultimately to point to a universal and impartially described principle or value). Thus the engaged, narrative and dialogical structure of much ordinary moral discussion is not seen as fit for the purposes of (philosophical) moral justification: instead it is seen as too personal and particularistic because it requires that the individuals concerned are appropriately situated in a specific context where there is some collective focus upon the goods at stake. Participants are invited mutually to utilise all the resources of their moral sensibilities - intellect, emotion, and imagination - in an attempt to identify and articulate the salient moral features of the situation before them. Moral justification is *not seen as separate from this process but is, in fact, constituted by it*. It is in describing some act as involving, say, cruelty that I justify not doing it, and, crucially, in describing it thus I am saying that this *particular act of cruelty is wrong* and I appeal to those around me to see this *particular act* in the same way. Typically I do not appeal to some higher level theory to justify my opinion, nor feel the need to do so. Now, while some sort of descriptive activity is a necessary part of Moral Theory it is only necessary as a *means* by which *non-particularistic* universal and impartial principles can be identified as relevant to a situation. For the Moral Theorist, a *particular* morally salient feature identified in a specific context does not carry any intrinsic ethical value in itself separate from some universal principle of which it represents an instantiation: it is not the

particular act of cruelty that makes it wrong but the fact that the particular act breaches the universal principle of non-maleficence. For example, if I am moved to protect and nurture my child because *I love my child* my parental activities reflect no intrinsic moral motivation or value on The Moral Theory Approach, it is only when those activities can be shown to be the actions that *any* parent has a duty to perform, even where the relationship might lack any love, that the actions concerned gain moral worth.

The Moral Theorist par-excellence, Immanuel Kant, explicitly adopted this rationalistic approach and thus provides a perfect example to consider in order to clarify my claims. Kant argued that it is so important to distinguish the rational(istic) reasons morally justifying a particular act from the non-moral feelings and inclinations that might motivate it that:

"... the sublimity and inner worth of the command is the more manifest in a duty, the fewer are the subjective causes for obeying it and *the more those against* - without, however, on this account weakening in the slightest the necessitation exercised by the law or detracting anything from its validity."

(I Kant, 1785, *Groundwork of the Metaphysics of Morals*, translated by Paton HJ, 1981, *The Moral Law*, London, Hutchinson, p.88 (425) (italics mine))

However, some modern-day followers of Kant: for example, C Korsgaard, and, MW Baron, argue that the sort of rationalistic reading of his views I have just mentioned above misses the point that Kant, himself, actually locates morality in acts of the will (indeed he begins the *Groundwork* with the famous claim that a good will is the only thing that can be taken as good without qualification), which suggests that personal motivation is key to his philosophy²⁸. Baron argues that:

"... it is not strictly correct to say that Kant's conception of virtue and the virtuous person presupposes an independent ethical notion [like duty]. The virtuous person is in essence the person of good will, and duty is

explicated via the notion of a good will, as is the Categorical Imperative. ... If we did have to pick one concept on which all the other concepts in Kant's ethics are based, the good will would be the winner."

(MW Baron, P Pettit, and M Slote, 1997, *Three Methods of Ethics*, Oxford, Blackwell, pp.39-40).

However, Baron misses the fundamental point, that Paton makes very clear in the introduction to his translation of the Groundwork, that the Categorical Imperative is *not* explicated via the notion of a good will, rather, a good will is *identified* with consciously acting in accordance with the Categorical Imperative:

"The *a priori* part of ethics is not to be confused with a philosophy of willing as such, since it deals, not with all willing, but with a particular *kind* of willing - namely, with willing that is morally good."

(HJ Paton, 1981, *The Moral Law*, London, Hutchinson, p.15)

As the quote from Kant above makes very clear, willing that is morally good is willing from duty (the Categorical Imperative) and *not* from personal motivation²⁹. This distinction is emphasised in Kant's later work "Critique of Practical Reason":

"The principle of one's own happiness, however much reason and understanding may be used in it, contains no other determinants for the will than those which belong to the lower faculty of desire. Either, then, no higher faculty of desire exists, or else *pure reason alone must of itself be practical*, i.e., *it must be able to determine the will by the mere form of the practical rule without presupposing any feeling or consequently any representation of the pleasant or the unpleasant* as the matter of the faculty of desire and as the empirical condition of its principles. Then only is reason a truly higher faculty of desire, but still *only in so far as it determines the will by itself and not in the service of the inclinations*. Subordinate to reason as the higher faculty of desire is the pathologically determinable faculty of desire, the latter being really and *in kind different from the former*, so that even the slightest admixture of its impulses impairs the strength and superiority of reason, ... *Reason determines the will in a practical law directly, not through an intervening feeling of pleasure or displeasure*, even if this pleasure is taken in the law itself. *Only because, as pure reason, it can be practical is it possible for it to give law.*"

(I Kant, 1778, *Critique of Practical Reason*, translated by L White Beck, 1993 (third edition), New York, Macmillan, p.24 (all italics and emphasis mine)).

Indeed, so much are our "inclinations" lacking in moral value that Kant argues it "... must ... be the universal wish of every rational being to be wholly free from them." (1981, p.90 (428)). In short, to say all this is to say (among other things) that moral argument *must* be rationalistic in its procedure. Kant, unlike some modern-day "Kantians", recognised that to make universalizability fundamental to morality *necessitates* such a consequence. Universal principles and rules are not open to personal interpretation but command our respect as "*laws*", and can only do this if they are codifiable as such in abstraction from any particular instance(s) (this is why they are *a priori* rules and not empirical generalisations). It is only in the light of this understanding that one can make any sense of Kant's vehement resistance to the common-sense notion that moral rules can be subject to exceptions. He recognised that to admit exceptions is to admit that moral principles and rules are uncodifiable and hence not universalizable (I demonstrate the truth of this crucial claim below in chapter 3).

The utilitarian Sidgwick, too, presents a very clear example of a Moral Theorist who adopts a rationalistic conception of moral argument. While he was very reticent to disparage the common dispositions people had to respond in the particularistic ways I have mentioned above, he argues that ultimately these dispositions are only morally justified insofar as they support a utilitarian maximisation of the general good³⁰. Thus Moral Theorists must always resort to a rationalistic form of argument, which ultimately excludes the personal, and appeals to impartially described universal principles. This, in turn, leads naturally to the fourth feature, the prioritisation of conceptions of what it is *right to do* over conceptions of what it is *good to be*.

(ii.d) Prioritisation of conceptions of what it is right to do over conceptions of what it is good to be.

The abstraction from particularities involved in the generation and application of universal and impartial principles and rules necessarily elevates *acts* to the primary focus of moral evaluation rather than individuals. *Individuals are only the subject of moral assessment insofar as the acts that they perform are independently considered to be right or wrong.* Thus the question concerning what it is good to be is either something to be derived from the prior specification of what it is right to do, or, more typically, is considered an area for private choice that is separate from the moral realm (although it is, of course, constrained by it). Either way the discussion of what constitutes the good life, or a worthwhile life to lead, is marginalised under The Moral Theory Approach. Accordingly, Moral Theorists devote most of their attention to establishing universal rights and duties, which provide a framework within which individuals can pursue their own conception of the good.

Clearly the foregoing pages represent a very general sketch of what I take the central principles and structure of Moral Theory to be, and naturally, different examples of Moral Theory will incorporate the four elements I have identified in different ways and to different degrees. What is certain, however, is that all four elements must inevitably be incorporated in some kind of combination. In the following two chapters I shall directly attack the principles of universalizability and impartiality; in the course of which I shall also attack the presuppositions privileging a rationalistic procedure in moral argumentation and prioritisation of the right over the good. I shall reject universalism as mistakenly motivated and incapable of providing the type of principles and rules which its application demands. In particular I shall claim that the attempt to codify unambiguous principles and rules upon which universalizability depends is not possible, and on that basis show that the principle of universalizability cannot provide any sort of plausible bridge between theory and practice. I shall conclude that the professional cannot hope to justify any particular ethical stance by invoking universal principles or rules as these would always be too open-ended or too remote from actual practice to establish any genuine form of legitimisation. Impartiality

will be rejected on the grounds that it rests on an implausible abstraction of moral agency from the personal interests and motivational structure of the individual. I shall claim that excellence in ethical behaviour is secured not by abstraction from personal motivation but by the professional coming to be motivated to realise the goods of her professional role. I shall conclude that in acting in a role an agent reasons from a perspective which inextricably unites personal and impersonal aspects such that it is impossible to split the two components in the way demanded by Moral Theory. The rationalistic structure of moral argument (under Moral Theory) will be rejected on the grounds that it fails to account for the multifarious ways in which we gain access to, and act in accordance with, a plurality of moral values and considerations. I shall claim that it is not rationalistic argument that enables the professional to understand and enhance her perception of her moral responsibilities and values, but rather a commitment to critical reflectiveness where this consists in an engagement in open dialogue with others about the goods and standards of excellence that define her professional role (reflection will thus be narrative in nature and will involve transitions between different conceptions of the goods at stake, not a rationalistic transition from universal premise to deductive conclusion). Prioritisation of the right over the good will be rejected on the grounds that in marginalising dialogue about what constitutes a good life to live and a good person to be Moral Theory neglects the most significant area of ethical life. I shall claim that Moral Theory, at best, can help in determining issues of social policy, but argue that this is only a marginal (if important) part of the ethical life of the professional, that the substance of professional ethics is concerned with the everyday articulation and embodiment in practice of what constitutes a good professional (priority will thus be given to developing the appropriate dispositions of (professional) character rather than attempting to establish rules of conduct).

In the course of these criticisms my own positive account in favour of a contextualist approach to professional ethics will emerge.

¹ See, for example: TL Beauchamp and JF Childress, 1994 (4th edition), *Principles of Biomedical Ethics*, New York, Oxford University Press, pp5-6. JP Demarco and RM Fox (eds), 1986, *New Directions in Ethics*, London, Routledge and Kegan Paul, p.5. R Norman, 1985, *The Moral Philosophers*, Oxford, Clarendon Press, pp.1-4. A MacIntyre, 1991, *A Short History of Ethics*, London, Routledge, pp.1-3. P Singer (ed), 1994, *Ethics*, Oxford, Oxford University Press, pp.10-13. G Warnock, 1967, *Contemporary Moral Philosophy*, London, The Macmillan Press Ltd, pp.1-3 and pp.56-7. ER Winkler and JR Coombs (eds), 1993, *Applied Ethics: A Reader*, Oxford, Blackwell, pp.3-8. B Williams, 1985, *Ethics and the Limits of Philosophy*, London, Fontana Paperbacks, pp72-74. The distinction between meta-ethics and normative ethics is also sometimes labelled a distinction between "Second" and "First" order ethics.

² See: A.J Ayer, 1967, *Language, Truth and Logic*, London, Victor Gollancz. And, C.L Stevenson, 1944, *Ethics and Language*, Yale University Press.

³ The effects of meta-ethical theory or analysis need not work as explicitly as this. For example, Alan Bloom argues that moral relativism (a meta-ethical position) has become embodied in the social institutions and exchanges of much of American culture, and that this has happened not so much through explicit argument about the merits of relativism, but has resulted as by-product of modern individualism which accords each individual the "right" to determine her own values (see, A Bloom, 1987, *The Closing of the American Mind*, New York, Simon and Schuster).

⁴ Here I am in agreement with ER Winkler and JR Coombs (eds), 1993, *Applied Ethics: A Reader*, Oxford, Blackwell Publishers, and a number of the contributors to that volume, who express a dissatisfaction with much past and current work in ethical theory and applied ethics and consider some form of reconstructed "meta-ethical" analysis as providing a constructive response to the inadequacies of the tradition. See esp. the Introduction, and chapters: 1-9.

⁵ In a spirit of generosity one might note that at least a part of the motivation lying behind the traditional distinction of meta-ethics from normative ethics was to disabuse those in the grip of an overblown conception of the moral philosopher as some sort of expert in living a moral life purely as a result of their skill in philosophical analysis. With this motivation we should all concur; however, to locate the philosopher entirely outside of practical ethical life is certainly to dislocate her.

⁶ This suggests that the moral philosopher and the audience she addresses engage in a mutual activity working back and forth between theory and practice, and between particular judgements and more general concepts. A process similar to what John Rawls calls "reflective equilibrium", see: J Rawls, 1971, *A Theory of Justice*, Oxford, Oxford University Press. esp. pp48-51.

⁷ This does not imply, of course, that philosophers should not contribute to the specific task of cashing out principles and values in specific contexts, for example, that they should not write books about nursing ethics which identify their particular ethical concerns. The point is, rather, that if they do engage in this sort of activity they will only be successful if they move beyond their distinctively philosophical role.

⁸ There are, of course, a very large number of books which seek to perform the task of cashing out substantive ethical principles, rules, and values which they claim should guide nursing (health care) practice, including, for example: TL Beauchamp and JF Childress, 1994 (4th edition), *Principles of Biomedical Ethics*, New York, Oxford University Press. P Burnard and CM Chapman, 1988, *Professional and Ethical Issues in Nursing*, Chichester, John Wiley and Sons. R Chadwick and W Tadd, 1992, *Ethics and Nursing Practice: A Case Study Approach*, London, Macmillan. L Curtin and MJ Flaherty (eds), 1982, *Nursing ethics: Theories and Pragmatics*, Engelwood Cliffs, Prentice Hall. RS Downie and Elizabeth Telfer, 1980, *Caring and Curing*, London, Methuen. RS Downie and KC Calman, 1987, *Healthy Respect: Ethics in Health Care*, London, Faber and Faber. J Harris, 1985, *The Value of Life: An Introduction to Medical Ethics*, London, Routledge and Kegan Paul. I Haywood Jones, 1990, *The Nurses Code*, London, Macmillan. G Hunt (ed), 1994, *Ethical Issues in Nursing*, London, Routledge. M Lockwood (ed), 1985, *Moral Dilemmas in Modern Medicine*, Oxford, Oxford University Press. K Melia, 1989, *Everyday Nursing Ethics*, Basingstoke, Macmillan. JL Muyskens, 1982, *Moral Problems in Nursing: A Philosophical Investigation*, Totowa, Rowman and Littlefield. P Ramsey, 1970, *The Patient as a Person: Explorations in Medical Ethics*, New Haven, Yale University Press. G Rumbold, 1986, *Ethics in Nursing Practice*, London, Bailliere Tindall. R Pyne, 1992 (2nd edition), *Professional Discipline in Nursing, Midwifery and Health Visiting*, Oxford, Blackwell Scientific Publications. RM Veatch and ST Fry (eds), 1987, *Case Studies in Nursing Ethics*, Philadelphia, JB Lippincott. V Tschudin, 1986, *Ethics in Nursing: The Caring Relationship*, London, Heinemann.

⁹ From here on I shall use the capitalised term "Moral Theory" specifically to refer to those sub-theories of ethics which provide universal principles and rules, accordingly I am not using the terms "Moral Theory" and "Ethical Theory" as synonymous (I shall discuss this important distinction more fully below).

¹⁰ It might be protested here that there is a third option available after meta-ethical reflection, namely the possibility of amoralism. I hope it is apparent that a discussion of this option would be out of place in the

present work which begins from the fact of a perceived need for ethics in professional life. However, in a purely dogmatic mode I would claim that amorality represents at best a weak theoretical option, and more importantly, an almost impossible practical option. For an illuminating discussion of just how difficult a practical option amorality represents see, B Williams, 1972, *Morality*, Cambridge, Cambridge University Press, esp. pp17-28.

¹¹ H Sidgwick, 1962 (7th edition) *The Methods of Ethics*, London, Macmillan, p.102.

¹² Sidgwick refines this principle further and casts it into the negative form: "'it cannot be right for A to treat B in a manner in which it would be wrong for B to treat A, merely on the ground that they are two different individuals, and without there being any difference between the natures or circumstances of the two which can be stated as a reasonable ground for difference of treatment.'" (ibid, p380).

¹³ To fully identify the three fundamental principles which he has specified with utilitarianism Sidgwick does see the need to further demonstrate an identity between the Universal Good and universal happiness, see, ibid, P.387, and also B Williams, 1995, *Making Sense of Humanity*, Cambridge, Cambridge University Press, p.162.

¹⁴ For a thorough account of the epistemological, metaphysical and moral presuppositions I am thinking of here see: C Taylor, 1989, *Sources of the Self*, Cambridge, Cambridge University Press, pp3-107.

¹⁵ See, I Kant, 1785, *Groundwork of the Metaphysics of Morals*, translated by HJ Paton, 1981, *The Moral Law*, London, Hutchinson (p.88, (425)). See also footnote 27 below.

¹⁶ On this point see HJ Paton's very clear reconstruction of Kant's argument in: HJ Paton, 1981, *The Moral Law*, London, Hutchinson, pp.14-16

¹⁷ I would argue that it is these shared presuppositions that explain why some philosophers find it conducive to combine elements of both Kantian and utilitarian theories, for example: RM Hare, 1963, *Freedom and Reason*, Oxford, Oxford University Press. J Rawls, 1971, *A Theory of Justice*, Oxford, Oxford University Press.]

¹⁸ On the necessity of this requirement see M Baron, P Pettit, and M Slote, 1997, *Three Methods of Ethics*, Oxford, Blackwell, chapter 2.

¹⁹ The question could also be phrased "What should I be?", either way the questions "What should I do?" and "What should I be?" are inescapably first-personal in nature.

²⁰ The qualifications I wish to add in describing the external constraints of morality as the "third-person perspective" is that I do not want to identify the third-person perspective with a purely objective realm of facts as many theorist do in using this terminology (especially where issues concerning the epistemological status of science is concerned). More importantly, as I shall discuss extensively below, I do not wish to identify the third-person perspective with a realm of universal truths. Rather I wish to use the term more simply as a way of identifying the fact that a necessary feature of the moral point-of-view involves the consideration of claims upon one's reasoning that generate externally to one's first-order desires. Indeed, it is one of my major critical themes in what follows in this thesis that Moral Theorists go wrong by making an assumption that there must be an identification of the third-personal requirements of the moral point-of-view with (pure) objectivity (and hence with what is universal) if justification of a set of moral values is to be possible.

²¹ See M Stocker, "The Schizophrenia of Modern Ethical Theories" *Journal of Philosophy*, LXXIII, 1976, pp.453-466.

²² See S Wolf "Moral Saints" in RB Kruschwitz and RC Roberts (eds), 1987, *The Virtues*, Belmont, Wadsworth.

²³ See, B Williams, 1981, *Moral Luck*, Cambridge, Cambridge University Press, ch.1. Even proponents of Moral Theory have sometimes felt the need to justify a space for personal action set free of moral considerations, for example, S Scheffler, 1982, *The Rejection of Consequentialism: A philosophical Investigation of the Considerations Underlying Rival Moral Conceptions*, Oxford, Clarendon Press. Scheffler attempts to show how such a space can indeed be justified by consequentialist thinking itself. For further brief discussion of Scheffler's view see chapter 4 of this thesis.

²⁴ These labels can be found in, A. MacIntyre, "Does Applied Ethics Rest on a Mistake?", *The Monist*, 1984, vol.67, pp.498-513. And: D Jamieson, "Method and Moral Theory" in, P Singer (ed), 1993, *A Companion to Ethics*, Oxford, Blackwell.

²⁵ The genealogy of its rise to ascendancy has been illuminated with great insight in the work of Alasdair MacIntyre, see: A MacIntyre, 1985, *After Virtue*, London, Duckworth.

²⁶ See also his "Professional Morality and its Dispositions" in Williams B, 1995, *Making Sense of Humanity*, Cambridge, Cambridge University Press, pp.192-202. Williams provides explicit advice on how professionals might understand and develop their understanding of ethics by engaging in a reflective consideration of the sorts of ethical dispositions professionals could be expected to cultivate.

²⁷ Quoted in C Diamond, 1995, *The Realistic Spirit*, Massachusetts, MIT Press, p.291.

²⁸ C Korsgaard, "From duty and for the sake of the noble: Kant and Aristotle on morally good action" in, J Whiting and S Engstrom (eds), 1996, *Aristotle, Kant and the Stoics*, Cambridge, Cambridge University Press. MW Baron "Kant's Ethics" in, MW Baron, P Pettit, and M Slote, 1997, *Three Methods of Ethics*, Oxford, Blackwell.

²⁹ As further evidence that this is what Kant means it is worth noting that he argues that each individual in the course of her moral reasoning has a "duty of apathy" (I Kant, 1797, *Metaphysics of Morals: Part II, The Metaphysical Principles of Virtue*, 408). By which he means that each individual must ensure that "...the feelings arising from sensible impressions lose their influence on moral feeling ... because respect for the moral law is more powerful than all of these feelings together." (translated by JW Ellington, 1983, *Kant's Ethical Philosophy*, Indianapolis, Hackett Publishing Company, 408)

³⁰ This, of course, introduces the very real possibility that what we typically take our "moral" dispositions to be i.e. genuine responses to real values, is radically mistaken. And, as Sidgwick himself recognised, if this were so, and if our dispositions are to continue to serve this (instrumental) role in securing the greater good we must continually delude ourselves of their true nature. For an alternative conception of ethical theory which makes the role of moral dispositions central and which preserves their status as intrinsically moral see: C Diamond, 1995, *The Realistic Spirit*, Massachusetts, MIT Press, chapters 11-15 passim. Also, LA Blum, 1994, *Moral Perception and Particularity*, Cambridge, Cambridge University Press, chapters 1-3, 5, 7, 8-11, passim.

CHAPTER 3

UNIVERSALIZABILITY: PRINCIPLES, RULES, AND CODES OF CONDUCT

"When we talk about ethics, we mostly mean a series of rules and principles by which we act, and which tell us what to do ... it saves us from the difficult and the often dangerous task of making our own judgements and deciding things for ourselves."

(William Barclay, *Ethics in a Permissive Society*)

"When we are trying, in a concrete case, to decide what we ought to do, what we are looking for is an action to which we can commit ourselves (prescriptivity) but which we are at the same time prepared to accept as exemplifying a principle of action to be prescribed for others in like circumstances (universalizability)."

(RM Hare, *Freedom and Reason*)

"Part of the reason why people are reluctant to abandon universalizability is that with it they would lose certain argument forms to which they are attached and to which they can see no alternatives."

(Jonathan Dancy, *Moral Reasons*)

Introduction

This chapter divides into two main sections. In the first part I shall describe three of the most important and influential versions of the principle of universalizability and show that it represents a central requirement of The Moral Theory Approach to ethics. In doing this I shall (seek to) draw out two crucial aspects of the principle. First, I will show how it is supposed to serve as the primary principle of *justification* for the more particular moral principles, rules, and values which are to be tested against it. Secondly, I shall show that the sort of justification the principle of universalizability provides has inevitable implications for the sort of practical reasoning that can provide the moral principles, rules, and values that meet its standards. In short, I shall argue that its adoption leads inevitably to a *rationalistic* approach to moral argument in which principles and rules become the dominant currency in moral exchange.

In the second section I shall show how the adoption of the principle of universalizability (Moral Theory) has very specific and extremely important implications for the resulting picture of professional ethics. I shall identify two essential features in this respect. First, I shall show how it leads inevitably to a "*top-down*" or "*deductive*" approach to applied

(professional) ethics. This involves developing a neutral and independently described Moral Theory (utilitarianism, Kantianism, contractarianism etc.) which is then literally *applied* to professional practice. The account of practical reasoning presupposed by this involves drawing universal principles and/or rules from Moral Theory to serve as the major premises in practical arguments where they are conjoined with minor premises drawn from some particular area of professional practice, to yield a specific conclusion¹. Secondly, I shall show that this approach to applied ethics explains the predominance of codes of conduct in professional ethics². Drawing upon the conclusion reached in the first section that The Moral Theory Approach requires the identification of explicit principles and rules for application I shall argue that codes of conduct appear to provide just what the Moral Theorist is looking for. This is because they just are explicit statements of the principles and rules of a particular profession. Accordingly they have come to be seen (explicitly and implicitly) as the central tool for justification and guidance in moral decision making.

I shall argue that profound flaws in the principle of universalizability which relate both to claims about its authority in justification and a deep misconception about the nature and application of principles and rules are transmitted to, and reflected in, profound flaws in an approach to professional ethics which makes codes of conduct central to the incorporation of ethical values in professional life. I shall not argue for a rejection of codes of conduct per se, but rather a rejection of the dominant conception of them in terms of The Moral Theory Approach which sees them as documents which: a) gain authority insofar as they can be shown to be *justified* by some kind of universalistic Moral Theory, and, b) provide explicit (universalizable) principles and rules for direct *guidance* and application to professional practice³. I shall argue that both aspects of the Moral Theory reading of codes require that principles and rules are explicitly *codifiable*, this I will show is impossible (I shall label this "the problem of codifiability"). In contrast I shall argue for a contextualist understanding of codes of conduct in which they can play an important (if less dominant) role in providing a *narrative structure* within which professionals can articulate and transform their understanding of the ethical goods at stake in any particular case⁴.

Universalizability and The Moral Theory Approach

(i) The Principle of Universalizability

Proponents of Moral Theory all incorporate some notion of universalizability. It is, indeed, a precondition of any system of principles, rules or duties designed to bind agents in the way that Moral Theories supposedly do that those principles rules or duties have universal application. It is in virtue of this specific feature in particular that one is compelled as an agent to accept the conclusions of a Moral Theory or else reveal oneself as subject to some kind of error similar, say, to claiming that one is not subject to the law of gravity (this might be because of sheer ignorance, wilful irrationality, or some other reason but whatever the case I am subject to the principles identified in Moral Theory as much as I am subject to the law of gravity whether I recognise it or not)⁵.

To begin, it is, perhaps, important to distinguish the principle of universalizability from a much weaker (although very important) idea that the domain of ethical consideration is in some sense universal: for example, that it concerns all human beings, or all sentient creatures, or the whole environment, etc.. This view is perfectly consistent with arriving at particular ethical decisions that do *not* apply universally (I take it that modern day contextualists typically adopt some form of both these two ideas; for example, that all humans belong to the moral community but that some personal relations such as those among members of one's own family have a certain moral privilege). The principle of universalizability holds much more strongly that any particular principle or rule that one adopts could or should be a principle or rule that *anyone* in relevantly similar circumstances could or should adopt⁶, and that *each individual* is subject to the same moral principles and rules as *any other individual*. Naturally there are different versions of the principle but all

of them in one form or another derive it from some feature of rationality or practical reasoning. Cicero typically provides a lucid and strong interpretation of the principle in his discussion of justice, right and wrong, in "**On the State**":

"True law is reason, right and natural, commanding people to fulfil their obligations and prohibiting and deterring them from doing wrong. Its validity is universal; it is unchangeable and eternal. ... Neither the Senate nor the assembly can exempt us from its demands; we need no one to interpret or expound it but ourselves. There will not be one law at Rome, one at Athens, or one now one later, but all nations will be subject all the time to this one changeless and everlasting law."

(Cicero, *ibid*, III, 22, 33⁷)

(i.a) Immanuel Kant

This passage just quoted is remarkably similar in tone and content to the work of Immanuel Kant who many centuries later made the principle of universalizability absolutely central to his theory, in the process making it appear so important that it became considered the very mark of the moral⁸. However, whereas Cicero derived the universalizability of moral judgements from the "fact" about reason that it is the, "...first common possession of man and God" ("**On Laws**", I, 7, 22), Kant derived the principle from the very structure of pure rationality itself. To see how he achieves this we need to turn briefly to the first section of the *Groundwork of the Metaphysics of Morals*⁹.

In the "*Groundwork*" Kant draws upon ordinary common-sense morality to show that the moral judgements we make however much they might be influenced or obscured by desires and inclinations etc. commit us to a (particular a priori) conception of morality in which the only unconditional good is a good will. From this he draws three important conclusions: first that the goodness of a good will consists in what its intentions are and not what it is successful in achieving (he notes that we typically do not morally blame people even if they fail in accomplishing a particular end); second, that the intentions of a good will consist in intentions to do what it is one's *duty* to do (he contrasts this with the fact that we are often

motivated to pursue happiness and argues that we only recognise intentions that arise from a sense of duty as moral); third, in intending to do what it is my duty to do I am showing *respect* for the moral law. With this last proposition in place Kant locates morality purely in the realm of the rational; in acting from duty I act regardless of my particular desires and ends, as such my reverence for the moral law is founded upon respect for the dictates of pure rational existence (since my desires cannot unconditionally command me to act it must be my reason which plays this role)¹⁰. Kant stresses (in chapter II of the Groundwork) that although the categorical imperative (the concept of duty) can be drawn from our experience of practical reasoning it is not a concept of that experience:

"For by what right can we make what is perhaps valid only under the contingent conditions of humanity into an object of unlimited reverence as a universal precept for every rational nature?"

I Kant, 1785, *Groundwork of the Metaphysics of Morals*, translated by HJ Paton, 1981, *The Moral Law*, p.73, 408)

So, the universalizability of our moral principles holds in *respect of our rationality and not because of any feature contingent upon our specifically human nature*. Thus, crucially, the principle is founded not in any (recognisably) specific moral notion but purely within the very idea of rational existence. Kant concludes that the laws (duties) that determine the will of a rational agent must have their source "...completely a priori in pure, but practical, reason".

Kant's first formulation of the categorical imperative represents an explicit statement of the principle of universalizability:

"I ought never to act except in such a way *that I can also will that my maxim should become a universal law*"

(I Kant, *ibid*, 1981, p.67, 402)

Now, of course, a question immediately arises concerning the derivation of such a proposition from pure reason alone, i.e. from what feature of our rationality does it follow that the categorical imperative has application to practical reasoning? Although Kant does not explicitly state it so it seems clear that the principle of universalizability rests ultimately upon the logical law of non-contradiction. In effect the moral duties we arrive at through application of the categorical imperative represent a *practical application of the logical law of non-contradiction*. Moral agents are rational agents, rational agents insofar as they are rational do not adhere to contradictory principles, rational agents insofar as they reason practically do not will contradictory principles of action, thus moral agents are concerned to act on maxims of action that are universally applicable and do not will any principle of action that is either internally inconsistent or in contradiction with other universal principles¹¹. It seems clear that this is the train of thought running through the examples of duties Kant briefly discusses (HJ Paton, 1981, *The Moral Law*, London, Hutchinson, pp.85-86, 422-426), in particular in his treatment of the "perfect" duties requiring us not to commit suicide and not to make false promises. In the latter example he says of the man who acts upon the maxim, "Whenever I believe myself short of money, I will borrow money and promise to pay it back, though I know that this will never be done." (ibid, p.85, 422), that he cannot will it to become a universal law as it must:

"... necessarily contradict itself. For the universality of a law that every one believing himself to be in need can make any promises he pleases with the intention not to keep it would make promising, and the very purpose of promising, itself impossible, since no one would believe he was being promised anything, but would laugh at utterances of this kind as empty shams."

(I Kant, ibid, p.85, 422)

The practical contradiction which correlates to the logical contradiction consists in the agent formulating a maxim of action that she should P (she should make false promises where it serves her self interest) but in doing so makes it impossible that she should P, thus, in effect she wills that P.¬P.

Thus the force of the categorical imperative results not from it being itself a substantive moral principle but rather from its being a formal logical principle that describes a fundamental feature, or requirement, of (practical) rationality. In effect, the categorical imperative represents a necessary condition of the very possibility of rational (moral) knowledge and decision making about what one ought to do. It is in that sense that it represents the "supreme principle of morality".

Now, this immediately raises a question about moral agency: "What is it to be an individual moral agent practically determining one's moral duties in the light of the 'supreme' principle of universalizability"? It has to be said that Kant does not provide a clear or detailed account of the constituent elements of moral agency; however, he says enough, I feel, to support the following brief picture. First, in answering a practical moral question (eg. what should I do?) an agent employs reason. Second, in acting for a reason an agent acts *from* that reason. Third, to act from a reason is to act from, or upon, a particular maxim or rule. Fourth, to act from a maxim or rule that is moral is to recognise that maxim or rule to be a duty or obligation. Fifth, to recognise that a particular maxim or rule is a duty one successfully tests it against the requirement(s) of the categorical imperative (the principle of universalizability). Conditions 1 - 3 represent conditions of rational agency per se, conditions 4 and 5 complete the conditions of moral rational agency. Taking condition 1 for granted¹² conditions 2 and 3, and conditions 4 and 5, provide an account of the moral agent that is quite distinctive and raises crucial questions. Conditions 2 and 3 present us with a picture of practical reasoning in which the form and content of practical reasoning is constituted by subsuming a particular action or intended action under a particular rule or maxim. And the particular rule or maxim under which an agent acts is *identified with the intention* with which she acts¹³. Thus, in the case of the example I quoted from Kant above, the maxim under which the agent proposed to act is identified with the intention to make a false promise to pay back money she wished to borrow¹⁴. The maxim of action thus identified is tested against the categorical imperative (conditions 4 and 5) and it is through

this application of the principle of universalizability that a moral duty may or may not be generated and justified. In the case of the present example, a duty not to make false promises is generated and justified.

On the Kantian picture, then, the moral agent identifies the maxim (rule) of her action and asks herself if it is a maxim she could will that all other rational agents to adopt. In the process she discovers whether she is bound by some perfect or imperfect duty to refrain from or act upon the maxim of her action. Each agent is thus engaged in an act of self-legislative reason in which she lays down for herself the duties which she is required to obey in the form of universal rules. The plausibility of this picture thus rests fundamentally upon the idea that moral behaviour actually is, or could, or should be, governed by the application of universal principles and rules (in this way).

A number of questions arise concerning Kant's account of universal principles and rules and how they are incorporated by the individual into moral decision making. Here I shall focus upon four main issues. First, what sort of judgement is involved in identifying a universal principle or rule? Second, what sort of judgement is involved in subsuming a particular situation under a rule? Third, how general or specific are universal principles and rules to be? Fourth, how do these principles and rules continue to obligate us in present and future cases?

In response to the first question Kant has little to say. I have already noted, of course, that Kant identifies the maxim of an agent's action with her intention and that this is then subjected to the categorical imperative to yield a universal principle or rule; however, he does not say anything at all helpful about what he takes to be involved in *identifying* one's intention (maxim) in the first place¹⁵. A similar point can be made about the second question, where Kant again has little to say about what it is to subsume a particular situation under a rule. Indeed, the two problems are intimately related because as it turns out judgement just is the "...faculty of subsuming under rules..." and it is thus no surprise that

Kant declares "...judgement is a peculiar talent which can be practised only, and cannot be taught..."¹⁶. As regards the third question Kant appears to offer a two-part picture in which we develop some very general moral principles and from these deduce more specific rules (an essential part of what I described in the introduction to this chapter as the "deductive approach" to applied ethics). So, for example, by employing the categorical imperative one can discover that one should never lie, and armed with this general principle one can determine in specific cases whether a proposed course of action is forbidden or permissible. Thus a nurse might engage in the following sort of process of moral reasoning:

1. (general universal principle) Do not lie
2. (proposed maxim of action) I will tell the patient a lie
about her state of health.
3. (conclusion) To lie to the patient would
conflict with the universal
rule "do not lie", therefore
I will not lie to the patient.

Of course, this example represents the process of moral reasoning in a crudely schematic fashion and Kant was well aware that one does not always articulate an argument in such an explicit way. However, it does seem clear that Kant believed one could in principle reformulate any particular stretch of moral thinking or behaviour in this sort of way in order to expose the implicit maxims (moral principles) concerned. Step 1 invokes a general universal principle which is initially yielded by testing a maxim against the categorical imperative. This, as we saw above, requires that at most we are familiar with one case as the test is fundamentally one of logic and specifically a practical manifestation of the law of non-contradiction. Thus the principle is established apriori (one cannot without self-contradiction assert both $P, \neg P$ whatever it is that actually fills the place of P) and can be

carried forward into all future situations and serve as a universal rule against which more specific maxims of action can be tested. Thus, in step 2 the nurse tests the proposed maxim of her action, that she should lie to the patient (perhaps because she feels this would be for the patient's overall good), against the general principle that forbids lying and should accordingly conclude, step 3, that she ought not to act as proposed and instead obey the more specific rule not to lie to the patient. This, of course, also answers the fourth question raised above; we are bound in future instances to obey the universal principles generated by application of the categorical imperative because as rational creatures we are bound by the relevant laws of logic as they manifest themselves in the practical domain yielding moral duties.

(i.b) Richard Hare

There have been a number of modern variants of Kant's theory and, in particular, his notion of universalizability. Most interestingly, utilitarianism, the much cited opponent of the Kantian view, also places universalizability in a central role in ethical theory. R.M Hare's work provides a good example. His neo-Kantian utilitarianism follows Kant very closely in its details of rational agency and like Kant stresses the idea that to determine what one ought to do one must subsume an action under a universal rule¹⁷. Hare has a little bit more to say in respect of the first question raised above: to make a judgement is to recognise that a set of features or properties $P_1, P_2, P_3 \dots P_n$ were the reasons for one's action: universalizability simply requires that in a relevantly similar situation when the same properties ($P_1, P_2, P_3 \dots P_n$) are present one is obligated (rationally compelled) to make the same judgement (or reject the original judgement). This, for Hare, answers the second question in a quite different way to Kant¹⁸. The *properties* $P_1, P_2, P_3 \dots P_n$ may be very general or very specific; the only restriction is that together they constitute a universal principle of action. Thus a moral principle is laid down in the act of judging that any situation in which $P_1, P_2, P_3, \dots P_n$ are present requires one to act according to the rule R_n . However, Hare argues that few if any of the moral *principles* we lay down in such judgements are likely to be *general* in nature (as they are with Kant):

"... universalism is not the doctrine that behind every moral judgement there has to lie a principle expressible in a few general terms; the principle, though universal, may be so complex that it defies formulation in words at all. But if it were formulated and specified, all the terms used in its formulation would be universal terms."

(R Hare, 1963, *Freedom and Reason*, Oxford, Oxford University Press, p.39)

Rather in determining a principle of action:

"We have to consider the particular case and make up our minds what are the relevant features, and what, taking these features into account, ought to be done in such a case. Nevertheless, when we do make up our minds, it is about a matter of principle which has bearing outside the particular case."¹⁹

(R Hare, *ibid*, p.38)

Thus, in answer to question three; to subsume a particular situation under a rule is either to identify the relevant set of properties P1,P2,P3...Pn as having previously required one to act according to the rule Rn, or to identify them as a uniquely new set of properties which establishes a new rule obligating one to obey this new rule in future relevantly similar situations in which the same set of properties occur. Thus each practical judgement either confirms an old rule or establishes a new one. A similar demand for logical consistency, then, underlies Hare's answer to question four as it does Kant's: the universality of a moral judgement demands on pain of contradiction that I assent to the same rule in future situations where the same properties are present as they were in a past situation in which the rule was obligatory.

(i.c) Discourse Ethics

Hare is just one among a number of modern authors who seek to defend a Kantian approach to universalizability based upon the logical principle of non-contradiction²⁰.

However, I wish to conclude this section on universalizability by mentioning another Kantian inspired approach to the universalizability requirement which transforms it from

being about self-legislating rationality to being a central condition of interactive rationality forming the method or framework of enquiry in which a community of individuals seeking a mutually acceptable set of moral rules for governing society can proceed. Apel and Habermas represent the most prominent exponents of this position which has been labelled "discourse ethics" (or "communicative ethics")²¹. They interpret universalizability as a *regulative ideal that validates the moral principles that arise from a dialogue in which all those who are, or might be, affected by the proposed principles freely consent to those principles*. Universalizability is thus no longer considered to be a process in which each individual alone determines what she can will without contradiction to be a rule for all but is instead a process of *intersubjective* argumentation in which communicative agreement is sought under conditions of free and fair debate. Construed in this way universalizability is founded not in the concept of rational agency per se but rather in the concept of *rational argumentation*, it is, to use Apel's terminology, a "transcendental-pragmatic presupposition of argumentation", or for Habermas a "universal pragmatic presupposition". The thought is that the structure and logic of argumentation in itself requires the application of the principle of universalizability, that without it there can be no genuine argumentation. In thus linking universalizability to consent as a condition of fair argumentation the question naturally arises about just what it is that links universalizability to consent and what as a consequence constitutes consent. For Habermas consent represents the result of a moral argument *constrained* by the principle of universalizability, the result being that the community of participants reach *universal agreement* on some particular principle(s). This position, however, has been criticised extensively for the implausibly strong demand it makes upon individuals to reach universal agreement on particular principles (hypothetical or real). Thus, Seyla Benhabib (1992, *Situating the Self*, Cambridge, Polity, pp26-38) suggests that a more plausible understanding of the link between universalizability and consent focuses on what we can agree as necessary for the structure and, hence, the very possibility of moral dialogue as a viable social practice: " It is not the *result* of the process of moral judgement alone that counts but the *process* for the attainment of such judgement which plays a role in its validity, and I would say, moral worth" (1992, p.37). Indeed,

Benhabib argues that "consent" is a misleading term in capturing what is central to the idea of discourse ethics, which focuses rather on *how* agreement can be reached in an open-ended moral conversation constrained by principles of universal respect and egalitarian reciprocity (ibid). On this interpretation the validity of a moral argument does not depend upon reaching universal agreement about some substantive moral principle or principles (as with Habermas) but rather rests upon an agreement about how fairly to discuss such principles, thus we might, indeed, validly agree to disagree on substantive issues²².

Now, what should be clear from each of the three accounts of the principle of universalizability just described is the extent to which it is seen as fundamental in the production of Moral Theory. The very legitimacy of any particular moral judgement, rule or act is seen as resting ultimately upon it being universalizable. Thus while all three accounts differ in their explanation of what universalizability consists in none of them question the necessity of providing such an explanation in the first place. For all Moral Theorists, then, the search for a coherent Moral Theory is inextricably tied to a search for a coherent articulation of the principle of universalizability. However, rather than criticise each of these accounts of universalizability directly I will instead make good my claim made in the introduction to this chapter that there is a strong link between the adoption of the principle of universalizability and the adoption of an approach to professional ethics which centres on the production and application of codes of conduct. My claim will be that codes of conduct have come to dominate professional ethics precisely because they are the most amenable form of practical ethics able to respond to the justificatory demands of universalizability and a rationalistic procedure in moral argumentation (i.e. The Moral Theory Approach). In criticising this understanding and application of codes of conduct, by showing that codes cannot serve the role Moral Theorists seek to put them to, I shall show that the principle of universalizability, in whatever form, is itself fundamentally flawed.

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II

Universalizability and Codes of Conduct

(i) Codes of Conduct: The Problems of Codifiability and Justification

Professional codes of conduct have become increasingly seen as the central means by which ethical principles and values and ethical conduct generally are cultivated within the professions. The development of a code has now become a *sine qua non* of any organisation, corporation, company, or aspiring profession which wishes to profess its ethical credibility to the general public it serves and to the society within which it exists. There are, no doubt, good reasons to be sceptical about the motivation lying behind the production of many codes, which can easily appear to be little more than public relation exercises. However, that is not my concern here. I shall be concerned, rather, to delineate the (putative) function and structure of codes of conduct and show that they cannot be interpreted in the way Moral Theorists suggest.

The clearest link between codes of conduct and the principle of universalizability is evident in the most obvious structural feature of any code, namely, that it consists of a set of *explicit principles and rules which are supposed to guide the conduct of anybody who happens to fill the professional role it covers*. And, of course, what is apparent in the discussion of the three types of universalizability above is that its practical implementation depends fundamentally on our ability to be able to specify *explicit principles and rules that all moral agents irrespective of their personal interests can come to understand as laying down maxims or reasons from which they should or could act* ²³. Thus, Kant's categorical imperative can only work as a (universalist) test for morality if one is able to specify (at some stage) the maxim/rule under which one intends to act. Hare's theory of universalizability demands (as essential to moral rationality) that we are able to subsume particular reasons for action under a rule which then binds us in all future instances.

Proponents of discourse ethics require the statement of clear and explicit principles as the subject matter upon which some kind of universal consensus can be reached or tested. In each case, then, the principles and rules of morality must be explicit and universal. Thus, *the plausibility of the principle of universalizability depends crucially upon the codifiability of particular ethical judgements into principles and rules that apply invariably*. The need for codifiability should be obvious: for Moral Theory to be able to provide genuine *universal* rules and principles for guidance it must be the *propositional content* of those principles and rules *alone* which provides guidance. That is, we should each independently be able to understand and act upon a principle or rule by determining directly the meaning of the propositional content of the principle or rule concerned (I shall discuss the ways in which this might be possible below, p.96)²⁴. Now, codes of conduct, *prima facie*, represent the most striking examples in practical ethics of an attempt to codify particular ethical judgements into a set of principles and rules. Thus, codes of conduct seem to present us with a prime practical example of an ethical practice (codifiability) that is central to the universalist's project.

Accordingly, if it can be shown that codes of conduct suffer from deep irresolvable problems when understood (solely) as attempts at codifying principles and rules in the way Moral Theorists demand; that, indeed, the attempt to codify principles and rules can never provide the kind of clear and unambiguous statement of maxims of actions required to genuinely determine morally correct conduct, then a decisive blow will have been dealt against the principle of universalizability. And this is precisely what I intend to show by arguing that the sort of moral principles and rules to be found in Moral Theory and in codes of conduct must always be *open-ended statements* that *point beyond their propositional content* and thus require *non-codifiable interpretation* (I shall call this "*the problem of codifiability*").

It might be objected at this point that I am moving too fast, that the link between universalizability and codes of conduct is not so clear. An obvious argument for this view

is the fact that in the construction of codes of conduct it is evident that the individuals, committees, or groups who put a code together are very unlikely to have in mind the principle of universalizability; their concerns will be with specifying local principles and rules pertinent to the particular interests of their profession (organisation etc.). There are two things I wish to say to this. First, it misses the point: as I shall go on to show in detail the problem of codifiability does *not* depend upon whether the principles or rules being codified are local or universal, in *either* case they will suffer from the fact that they will always need to be open-ended statements that require a non-codifiable interpretation. Thus, even if it is true that codes of conduct do not represent explicit attempts to codify universal principles and rules, it remains true that an attack on codes of conduct in terms of the problem of codifiability will also stand as an attack on universalizability because, as we have just seen, universalizability cannot do without codifiability. Secondly, there is another link between the principle of universalizability and codes of conduct which extends beyond the mutual concern with codifiability (although as it shall be shown, cannot be separated from it). This has to do with the *justification* of moral principles and rules. I have already shown above that the principle of universalizability has the central role in justifying moral principles and rules, likewise, then, it is clear that the overt function of any professional code of conduct is to justify or legitimate the principles and rules that guide the activities of a profession. A professional code of conduct ostensibly represents a formally written pledge to serve the best interests of the clients with which a profession deals (and, typically, to serve the public good generally) according to moral values and principles that uphold the highest levels of ethical integrity and trust. This, in effect, is a code's external function: it informs and assures those outside of the profession who are likely to be its clients that those who practise within the profession will serve the clients' best interests in accordance with morally unimpeachable values. The need for this assurance has been discussed earlier in this thesis (chapters 1 and 2) and rests upon the fact that the specialised knowledge which informs the distinctive interventions of the professional put her in a position of power over the client and leaves the client open to possible abuse. However, this external function of a code of conduct is only likely to serve a legitimating or

justificatory role if the general public become convinced of two things. First, that the code does not simply represent a set of parochial moral principles and rules which merely serves the self-interests of the profession and professionals concerned. Secondly, that the moral principles and rules of the code do in fact genuinely guide the conduct of the professionals they cover. It is the first issue raised here that has directly inspired Moral Theorists to claim that *the moral principles, values, and rules of a professional code can only be justified or legitimated if it can be shown that they are ultimately grounded in universal moral principles*. There is, then, another strong link between universalizability and codes of conduct, one that links them in a relationship of moral justification. Naturally this will form a second area of focus for my criticisms of universalizability and the problems I discuss in this respect I shall label "*the problem of justification*". The problems of "codifiability" and "justification" will be seen to be inextricably related; however, I shall begin with the second issue first and move quickly to the problem of codifiability.

(i.a) The Problem of Justification

Nigel Harris (1994) argues:

"If the clauses of a code are thought of as having genuine ethical content then a question has to be faced, namely, what is the basis for that content? In traditional thinking about ethics principles of the level of generality found in codes of conduct are not self-justifying, but need to be seen as applied principles of some general moral theory."

(NGE Harris, "Professional codes and Kantian duties" in RF Chadwick (ed), 1994, *Ethics and the Professions*, Aldershot, Avebury, (pp.104-115))

Harris is supported in his view by Robert Veatch who, in discussing the American Medical Association code of conduct, argues:

"The foundation of a role-specific ethics for professionals that has impact outside the profession cannot be beliefs, values, mutual agreements, or a sense of self-definition of the profession itself. It cannot even be

rooted in some more universal basis if knowledge of that basis is limited to professionals. ... The underpinning must be some more *universal* source of morality viewed by physicians and patients alike as legitimate. If the origin is exclusively within the profession, no rational reason exists for patients to subject themselves to the behaviour seen by professionals as moral. ... The major normative ethical systems - utilitarianism, the principle of the golden rule, the deontological traditions - could all provide such a basis."

(RM Veatch, "Professional Medical Ethics: The Grounding of Its Principles", The Journal of Medicine and Philosophy, 1979, vol.4 no.1 pp1-19) (my italics)

Both philosophers express a concern that we should not accept the moral authority of a professional code of conduct that has only been subject to considerations that are generated from within the views and behaviours of the very professionals that the code is supposed to regulate. Their concerns are well placed. However, they slip from this legitimate concern to the highly contestable claim that professional codes of conduct must be grounded in some form of *universalistic* Moral Theory if they are at all to be morally justified^{25 26}. Veatch argues that the moral authority of a code is grounded in a "triple contract" theory of ethics: which links the universal conditions of a moral contract formed between humans as such (qua human), to a contract formed between profession and society, to a contract formed between the individual professional and individual client (ibid pp.14-17). The latter two contracts, of course, are grounded in and justified by the first contract which identifies universal principles and rules of conduct. Veatch suggests that contractors in some sort of Rawlsian original position²⁷ might agree upon principles of justice, veracity, beneficence, promise keeping etc. These principles establish universally applicable norms which then are to be *applied* to the specific contexts of professional life where they get their particular content in terms of the second institutional level of contract between profession and society, and so on to the individual level. He concludes:

"The relevant principles governing behavior between professionals and lay persons must remain a matter of mutual contractual agreement bound only by the more *universally grounded ethical principles* established or discovered in the earlier social contract." ²⁸

(RM Veatch, ibid p.16) (my italics)

Harris, alternatively, argues that the authority of codes of conduct can be grounded by recasting or reformulating the principles and rules they contain in a "Kantian" deontological form (op cit. p.105). He starts from the fact that codes of conduct typically contain clauses that are imperative and categorical in their nature: for example they frequently begin, "A member shall ..." where the completed instruction is not hypothetically premised on some particular outcome (the nurse is meant to obey the principle of confidentiality simpliciter not conditionally). He suggests, then, that they already point in the direction of Kant's categorical imperative. Harris recognises that there are very real difficulties in fitting the imperatives of codes of conduct into the Kantian form (pp.108-13), but having already dismissed the consequentialist and virtue based alternatives as their grounding he sees no alternative but the Kantian option. He concludes:

"The defects or limitations in codes as they are now applied should not be taken to show that their clauses are not to be treated as Kantian principles at all, but rather that as Kantian principles they are flawed. So we should not look for a different theoretical basis, but try to ensure that codes *fit the Kantian model better* by seeking to rectify their current shortcomings."

(NGE Harris, op cit. p.114) (my italics)

What is striking about both these examples is just how *strongly* the authors feel the need to justify codes of conduct in universalistic terms. Harris's last comment is particularly revealing; having previously recognised the enormous difficulties that arise in trying to recast the principles and rules of codes into Kantian form he still insists at the end that it is the principles and rules of the codes that suffer "shortcomings" and need "rectifying" according to Kantian Moral Theory. It does not seem to occur to him that the principles and rules of codes of conduct might serve their moral purposes perfectly well *without* this sort of justification, that, indeed, it is his attempt to force them into some kind of Kantian framework that is "flawed".

Harris and Veatch are not alone here; all Moral Theorists feel the overwhelming need to justify particular moral outlooks in universalistic terms. The primary motivation for this is not hard to find. In an explicitly pluralistic world in which different and competing conceptions of the good vie, moral order (coexistence), it is thought, can only be sustained if we can establish an overarching *neutral* ethic justifiable to all the parties concerned. As Peter Singer has put it: " [we must understand]... ethics as in some sense *necessarily* involving a *universal* point of view." ²⁹ (my italics). The thought underlying this is that, unless there are reasons that are impartial/universal then there really are not any moral reasons at all, all reasons boil down to pure self-interest. However, this view rests squarely on a *central presupposition of Moral Theory: that all reasons for action divide up into one of two types; those that stem purely from self-interest, and those that stem purely from impartial/universal considerations*. Harris, Veatch, and Moral Theorists generally, all accept this presupposition, hence, the overwhelming motivation to justify specific professional codes of conduct in terms of universalistic Moral Theory (they can see no alternative). In the next chapter I shall at length challenge the Moral Theorist's fundamental dichotomy of reasons into those that are self-interested and those that are impartial/universal by showing that agents can and do act on reasons that are neither purely self-interested or purely impartial. However, for the remainder of this chapter I will tackle Moral Theory on its chosen ground. I will argue that even if we initially allow Moral Theorists the concession that ethical principles and rules must provide the justificatory grounds for moral thinking and action, those principles and rules cannot be what Moral Theorists both take them to be and *need* them to be. In short, I will show that they cannot provide the universal premises for the deductive form of argument that characterises The Moral Theory Approach to applied ethics.

(i.b) The Problem of Codifiability

It will take us to the heart of the matter to consider a very interesting paper by Alasdair MacIntyre "Does Applied Ethics Rest On A Mistake?" ³⁰ in which he recounts the

experiences of the philosopher Stephen Toulmin as a staff member on the "National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research". The striking thing that Toulmin noted about the conduct of the committee was that the participants found it:

"... relatively easy to reach agreement, or in a minority of intractable cases at least local and isolable disagreement, on particular concrete issues raised by specific difficult types of case, but continued to have fundamental and radical disagreements on matters of moral principle, on what the rules of morality actually are, even although each of them individually aspired to justify his or her views on the concrete issues by appeal to his or her principles." ³¹

(A MacIntyre, "Does Applied Ethics Rest on a Mistake?", *The Monist*, 1984, Vol 67, pp.498-513)

Now, a situation like this is extremely alarming for The Moral Theory Approach as it suggests that the divergent principles appealed to have *neither a justificatory role nor a role in guiding* the moral reasoning of the individuals concerned, for they have clearly reached some kind of moral agreement irrespective of their theoretical differences. However, *as MacIntyre notes, this sort of situation is hardly an isolated occurrence but is actually a very common feature of applied ethics.* As any review of the extant literature will reveal individuals of quite different theoretical persuasions (Kantians, utilitarians, contractualists etc.) can be found grouped together on either side of any major substantive debate (abortion, world poverty, animal rights etc.). MacIntyre argues that there are three possible explanations for this situation. The first is that the application of rival moral principles to a problem unexpectedly yield the same substantive results in a large number of cases. However, he rightly dismisses this explanation out of hand on the grounds that it undermines the very idea that there are really rival principles competing at all, and since we have good reason to think that the principles proposed by Kantians and utilitarians etc. are genuinely in conflict this explanation is clearly inadequate. The second explanation suggests that the participants in moral debate reach agreement upon substantive issues because their actual moral reasoning appeals to cases about which they agree and not to the

principles and rules about which they disagree. The participants, then, are guilty of misrepresenting to themselves their own reasoning as the application of principles when in reality they are being driven casuistically from case to case. This explanation certainly has some initial plausibility and perhaps accounts for the burgeoning number of books in applied and professional ethics that focus on a case history approach. However, this approach has a major shortcoming in identifying what it is that drives one from case to case³². It is the third explanation that goes to the heart of what is wrong with the Moral Theory conception of principles and rules. MacIntyre suggests that in at least some cases, "... *what is in fact a nonrational social transaction is being presented as though it were a process of rational argument.*" (ibid. p.501) (my italics).

MacIntyre's argument can be a bit elusive in places; however, I think the rendering I shall give in what follows gets to the point of what he wants to say (and even if he does not want to say exactly what I want to say, the points I make will stand independently as an incisive criticism of Moral Theory). His point is fundamentally about what is involved in following a rule, and I take what he means by "nonrational social transaction" to mean that the social exchange among individuals in which certain ethical values are discussed and agreed upon is not based upon a *rationalistic* procedure in moral argumentation. That is: the individuals involved in the debate are *not* constructing their arguments according to the deductive paradigm of The Moral Theory Approach to applied ethics. That approach requires that an independently determined set of impartial/universal principles and rules constituting Moral Theory are applied to a specific (professional) context. This would require that an individual is able to formulate and grasp universal principles and rules in advance of any application and then determine what they call for in terms of action in some specific context. So, for example, a nurse should be able to grasp what principles, like those supporting autonomy and confidentiality, require in general and then enquire into what they demand in the specific context of her in actual professional practice. MacIntyre's claim is that the principles and rules needed for this approach are simply not available: "... *it cannot be the case that we can first and independently comprehend the rules of morality as such*

and then only secondly enquire as to their application in particular specialised social spheres." (ibid. p.501, my italics). The reason for this has to do with a *necessary* feature of any rule: that *no rule exists apart from its applications*. A further consequence of this is that *neither can there be an understanding of a rule separate from its applications*. And it is precisely this that causes the problem of codifiability. For principles and rules to be codifiable they must be statable in explicit terms and have unambiguous universal applicability within their domain, irrespective of the particularities of the individuals they address (this is what I mean when I say that *their propositional content alone should determine correct application*). However, if rules can never *exist* apart from their applications, and can never be *understood* (or made intelligible) separately from their applications, the possibility of codifiability *cannot* be fulfilled. Evidence for this is manifested most obviously by the fact that moral principles and rules cannot be stated so as to secure closure, reference (explicit or implicit) must be made to a whole range of exceptions which remains open to new additions. Even the most well established moral principles and rules- for example: "Do not kill.", "Do not Lie"- have to be understood as invoking a long list of exceptions that is always subject to extension as circumstances dictate. Indeed, typically, moral dilemmas consist in trying to establish whether some particular act in the circumstances would count either as a breach of the principle/rule concerned or a further addition to its list of exceptions. And clearly, contemplation of the abstract propositional content of the principle or rule cannot itself determine this, it is only in the light of considerations that focus upon previous applications of the principle/rule and projections therefrom into present and future contexts that a decision can be made. Aristotle clearly grasped this point, as I noted in the previous chapter, and accordingly dismissed the idea that moral thinking had anything to do with codifying principles and rules. However, it is not until the arrival of Wittgenstein that we get a full and profoundly important explanation of why rules cannot be understood separately from their application (and therefore cannot be codified)³³. I shall try to give a very brief summary of his most important claims³⁴.

(i.c) Wittgenstein on Rule Following

In his "**Philosophical Investigations**" (1953, Oxford, Basil Blackwell, translated by GEM Anscombe) Wittgenstein focuses on the issue of what is involved in successfully following a rule. One of the first thing he claims is that the bare propositional content of a rule alone can never fix the correctness of its own application because a rule (so understood) is nothing more than a "sign-post" (section 85); it specifies what is to be done but cannot specify what needs to be understood for the rule to be followed:

"A rule stands there like a sign-post- Does the sign-post leave no doubt open about the way I have to go? Does it shew which direction I am to take when I have passed it; whether along the road or the footpath or cross-country? But where is it said which way I am to follow it; whether in the direction of its finger or (e.g.) in the opposite one?"

(L Wittgenstein, 1958 (second edition), **Philosophical Investigations** (translated by GEM Anscombe), Oxford, Basil Blackwell, p.39 (85)) (italics mine))

The fundamental problem that Wittgenstein identifies is that there are potentially an innumerable number of ways in which a rule could be interpreted, so the ability of an individual to follow a rule correctly has to be fixed by something other than the bare statement of the rule itself. What, then, fixes or constitutes our ability to follow a rule correctly? Wittgenstein dismisses the only sorts of explanations that could preserve the Moral Theorist's rationalistic project³⁵. First, he rejects what might be described as the "intellectualist" explanation. This grounds one's ability to follow a rule in terms of one's grasp of a further (higher order) rule or set of rules and principles that determinately fix the application of the first rule. The second rule (or set of rules) constitutes an interpretation or a theory of the first rule which once understood enables one to know what the first requires. There are two overwhelming reasons to reject this account. First, exactly the same problems of what constitutes correct rule following in the case of the first rule arise for the second rule or set of rules, thus the problem cannot be resolved in this way but merely plunged into an abyss of infinite regress (see sections 84-87). Secondly, it seems quite clear

that intellectualist explanations have no role at all to play in accounting for the typical rule governed activities in which humans mutually engage. Conversations, for example, are our prime mode of human interaction and understanding, and involve following a complex weave of different types of rules (rules of word meaning, deference, intimacy, solidarity, appropriateness, disagreement etc. etc), but successful conversation quite clearly does not depend on each of the participants possessing a unified theoretical explanation either of their own (rule governed) interjections or the (rule governed) interjections of the other³⁶.

Wittgenstein rejects the only other alternative open to the Moral Theorist to explain correct rule following: this locates the ability of an individual to grasp and follow a rule in terms of some independent underlying psychological mechanism. The thought here is that it is some intrinsic feature of the human individual's cognitive apparatus which ensures that rules are "brutely" understood and followed³⁷. This "solution" in effect begs the question against Wittgenstein's argument, as he shows, with an ingenious example, it still leaves open the possibility of innumerable interpretations of a rule (sections 185-233). He imagines giving an instruction to a (previously) competent pupil to extend a series of numbers by "adding 2" to the previous number. The pupil proceeds perfectly up to 1000, and it is tempting to believe that she is successful at this because she has internally grasped the formula for "add 2" which consists in mechanistically churning out the appropriate results. But suppose after reaching 1000 she continues 1004, 1008, 1012; no doubt we would protest that she was meant to "add 2" not "add 4", that she had simply got it wrong. However, suppose she rejoinders that "adding 2" was precisely what she was doing in continuing the series of numbers with 1004, 1008, 1012, that this is what she *understands* by the rule "add 2" (i.e. after 1000 continue on with 1004, 1008, 1012...). What this shows, according to Wittgenstein, is that we explain nothing about the ability to follow a rule by positing an underlying psychological mechanism. While it was initially tempting to describe her ability to count to 1000 in these terms the fact that this ability comes apart after 1000 shows that positing such a mechanism actually provided no account at all of her ability before she

reached 1000. The problem remains, then, that innumerable interpretations of how to follow a rule are possible and consistent with any amount of previously correct behaviour.

What, then, could provide an adequate account of the ability to follow a rule? According to Wittgenstein, it is nothing other than *active engagement* in the everyday *shared forms of human life* where one learns and demonstrates the ability to follow a rule (There can, then, be no apprehension of a rule separately from the range of its applications or instances).

Wittgenstein's point is of the first importance. Moral Theorists picture rules as ultimately standing separate from a particular practice in order to provide justified criteria for guiding that practice (i.e. rules are codifiable). Wittgenstein radically overturns this account: not only cannot rules be abstracted from practices (forms of life) but it is the very practices themselves which actually give rules their content and authority in the first place. Our ability to follow a rule, then, has to do with "knowing" how to go on *within* a practice, and the reasons why one goes on in one way rather than another (1002, 1004, 1006, rather than 1004, 1008, 1012) can ultimately refer to nothing other than the living practice itself.

Wittgenstein puts it boldly: " "Have I reasons?" the answer is: my reasons will soon give out. And I shall act, without reasons." (ibid, p.84 (section 211). As John McDowell notes (1979, p.338), probably no-one describes this point better than Stanley Cavell commenting upon the ability to use words:

"We learn and teach words in certain contexts, and then we are expected, and expect others, to be able to project them into further contexts. Nothing insures that this projection will take place (*in particular, not the grasping of universals nor the grasping of books of rules*), just as nothing insures that we will make, and understand, the same projections. *That on the whole we do is a matter of our sharing routes of interest and feeling, modes of response, senses of humour and of significance and of fulfilment, of what is outrageous, of what is similar to what else, what a rebuke, what forgiveness, of when an utterance is an assertion, when an appeal, when an explanation- all the whirl of organism Wittgenstein calls "forms of life."*"³⁸ (italics mine)

The ability of an agent to follow a rule is largely a pre-reflective practical ability. It depends upon a *situated* competence to find her way around a practice by being sensitive (typically at an unreflective level) to a whole range of interconnected considerations and features that form the largely unarticulated framework (or point) of the practice within which the agent exhibits her knowledge and aptitude. The unarticulated framework of a practice provides a background (communal and pre-reflective) understanding that enables individual agents to exercise *real-time* judgements and actions. As the expression "real-time" suggests, the pre-reflective understanding embodied within a practice is a necessary condition of intelligible human action given the sorts of creatures we are and the lives we live at the pace we live them.

It is crucial to recognise that none of what has just been said should be thought to undermine the idea or importance of critical reflection; Wittgenstein's claims are not to be taken sceptically³⁹. When he argues that: "explanations come to an end", that "reasons soon give out", that when we reach "bedrock" and can "offer no more justifications" we must act "without reasons"- he does not mean that our actions are ultimately unguided or irrational. His point is that *it is a mistake to think that for a rule to be genuinely guiding we need something other than the very rule itself as it manifests itself in practice*⁴⁰. Nothing Wittgenstein says suggests that we should not further investigate the *practices* in which we engage for a deeper understanding of why we follow particular rules in the way we do. And while, as I have just noted, practices provide a largely *unarticulated* framework within which agents follow rules, there always remains the possibility of articulating what is typically taken for granted (unarticulated) in moments of critical reflection⁴¹. What Wittgenstein does rule out is that in articulating what is unarticulated one will uncover some foundational set of rules or theory.

Wittgenstein's arguments about rule following, I would claim, represent a knock-down case against the conception of rule following that lies at the heart of the Moral Theorist's account of the sort of practical reasoning involved in applied ethics. However, a brief sketch of an

alternative conception of practical reasoning which takes as central Wittgenstein's claim that rules cannot be understood separately from practice should confirm the superiority of this approach over the traditional view.

(i.d) Contextualist Moral Reasoning

For the contextualist it is always the present features of the practice (context) in which one is engaged that structures and directs practical moral reasoning. The agent is thus required to develop a sensitivity to what the particularities of the situation before her demand rather than abstract from context and apply universal rules and principles in a rationalistic fashion⁴². This leaves only one general mode of critical thinking open to the contextualist; one in which the primary task is making *sense* of what one does or proposes to do. That is, rather than attempt to argue you into acceptance of rationally provable (universal) first principles, what I seek to do is get you to *see the point* (sense) of why I think that a particular rule demands x in the circumstances rather than y. In doing this I will typically seek to make *sense* of the rule's previous applications and the applications I propose to make of it in the future. *The activity of making sense of a rule's application is inherently descriptive and narrative in nature and consists in: a) identification of the salient features of a situation in virtue of which a rule is prima facie invoked, and, b) description of the various salient features of situation such that together they take on a certain moral shape*⁴³. Jonathan Dancy puts it thus:

"To see a feature as salient is to see it as making a difference to what one should do in the case before one. Since there are normally several different salient features, related to each other in various ways, a full view of the circumstances will not only see each feature for what it is but will also see how they are related to each other. Such a view will grasp the *shape* of the circumstances. From saliences we move to shape. A situation has a shape in the sense that its properties have a practically related profile.

(J Dancy, 1993, *Moral Reasons*, Oxford, Blackwell, p.112)

So, for example, a salient feature of a situation might be that to do x would cause misery to P, and this prima facie invokes a moral rule prohibiting the infliction of misery (thus prohibiting x). However, another salient feature of the same situation might be that P needs to know the truth about y and this prima facie invokes a moral rule requiring that one tells P of y, and this as it turns out involves doing x. The situation is not uncommon in health care: to do x here might involve telling someone that they have terminal cancer, and y might be the actual fact that they have terminal cancer. At first sight it appears that we have two conflicting rules relating to two salient features of the situation at hand; however the appearance is misleading because we need to avail ourselves of the notion of *shape* to see how these different salient features practically relate. Very interestingly the last two or three decades have seen a radical change in the understanding of the shape that health carers have ascribed to these two features (among others). Under the paternalistic model of health care which dominated for most of this century doctors (and nurses) typically saw their role as deciding what was best for the patient and this was taken to mean that they should "protect" the patient from upsetting information. Thus they would standardly have seen the rule about not causing misery as taking priority over the rule about truth telling. However, the dominant model of health care now is founded on the notion of patient autonomy, and the patient's right to know the truth about any condition that might affect her autonomy is seen as taking priority over the concern not to cause her misery by telling her bad news. Irrespective of which of these views is seen as right what is evident is that *the moral shape that each of these views take depends fundamentally upon the background features of health care practice which are explicitly and implicitly acknowledged by the professionals concerned*. And in each case the way in which the shape of the situation is articulated depends upon telling a *narrative* in which one brings to the fore (previously unarticulated) features of the background practice enabling one to make *sense* of the importance and role of the various salient features present:

"A narrative will typically have characters (who may be individual human beings, ... organisations, classes and nations...). Characters will have specific capacities, goals and abilities, moral strengths and weaknesses. A

narrative will have a narrator (who, as the 'point of view' from which the story is told, is distinct from the empirical author). In that the narrator does not and cannot aspire to a position of neutrality or objectivity in relation to the events narrated, the point of view adopted entails a specific judgement of the events This judgement is articulated in what Ricoeur terms the 'configuration' of a series of events, actions and interactions, actors and motives, circumstances and outcomes within a plot. ... [configuration] serves to bring the diverse events into a meaningful whole. The whole is the point, theme or idea of the account. *Each event thereby acquires sense only through being placed and grasped in specific relationships to other events within the narrative.*"

(A Edgar, "Narrating Social Work", in R Chadwick (ed) 1994, *Ethics and the Professions*, Aldershot, Avebury, p.127) . (my italics)

However, not just any narrative will do, indeed the transition from a paternalistic model of health care to one centred upon patient autonomy can be seen as the (legitimate) triumph of the latter narrative over the former. This triumph is grounded in the recognition that the background assumptions and ideas drawn upon in the "patient autonomy" narrative enables us to make more sense of the salient features of health and health care than can be provided by the "paternalistic" alternative. For example, when we come to see that the whole point of desiring good health is that it enables us to flourish as autonomous beings, then the "paternalistic" narrative which actually undermines that autonomy becomes untenable. As Charles Taylor has argued:

"Practical reasoning ... is a reasoning in transitions. It aims to establish, not that some position is correct absolutely, but rather that some position is superior to some other. It is concerned ... with comparative propositions. We show one of these comparative claims to be well founded when we can show that the move from A to B constitutes a gain epistemically. ... This form of argument has its source in biographical narrative. We are convinced that a certain view is superior because we have lived a transition which we understand as error-reducing and hence as epistemic gain."

(C Taylor, 1989, *Sources of the Self*, Cambridge, Cambridge University Press. p.72)⁴⁴

Critical moral reasoning, then, is essentially an activity in which rules are evaluated (and correctly followed) in the light of the narratives (practices) within which they are embedded. This creates two general critical possibilities: a) that an individual's application of a rule does not cohere with the narrative upon which it depends, and, b) that the particular rule following demanded by a narrative shows the narrative to be suspect. Neither of these options are exclusive, typically there is a working back and forth between narrative and rule in a hermeneutical circle.

(i.e) Rules as Partial Specifications of Goods

Thus it is, then, that rules can never be understood separate from their application, or practice. Understanding the salience of a particular rule will always be parasitic on some level of implicit and explicit understanding of the practice (or narrative) which gives moral shape to the salient features (rules) concerned. Indeed, it is in this sense that we should actually understand *rules to be a partial specification of the goods* which the practice embodies and seeks to realise. As MacIntyre claims, when we seek to extend a rule to cover new cases, reformulate a rule to exclude certain behaviour, reject a rule outright, formulate a new rule, or whatever, "... it must always be because members of that particular community could agree in seeing some substantial good at stake in responding in one way rather than another." (op. cit. p.506). It is in this light, for example, that we can understand why the rule of truth telling has come to be seen as much more salient under the patient autonomy model of health care than under the paternalistic model. The rule relating to truth telling is in fact a partial specification of the good which health seeks to realise, namely autonomous agency.

This means, of course, that there can be no impartial or universal set of rules to which one can appeal in trying to justify one moral position over another. The rules of morality will always express some conception of the good at stake, and the rationality in following a rule in one way rather than another will always be correlative to the conception of the good(s) expressed⁴⁵. This has the consequence of removing one of the most important motivations

for the principle of universalizability- that it provides a neutral position from which radical criticism of current ethical beliefs is possible. Not only is this shown not to be a possibility but also it exposes how the principle of universalizability actually masks a failure to engage in genuine moral criticism. The problem of codifiability shows that there are innumerable possible interpretations of a principle or rule, thus it is no surprise that different authors find that the principle of universalizability enables them to justify quite different sets of moral beliefs. So, far from providing a source of radical criticism, Kant's categorical imperative merely confirms the Christian morality he already promulgated. Equally, there is an inherent (although often overlooked) conservatism in utilitarianism as the problem it has with respecting the interests of minority groups attests. Moral justification on the contextualist approach I have outlined will be less ambitious in its scope (it will not be a case of trying to justify a set of beliefs universally), but for precisely that reason a much more honest and substantive activity. Crucially, justification and description will not be regarded as two separate processes. In describing a moral situation in one way rather than another one will in the very same act also be justifying the position described, this, of course, is an inevitable consequence of adopting the narrative approach just discussed.

(i.f) The Role of a Code of Conduct in Moral Reasoning

The implications that the foregoing discussion on the non-codifiability of principles and rules has for our understanding of the nature and role of codes of conduct is of the first importance for professional ethics. In particular, it means that the common-place conception of codes as documents that provide principles and rules for direct application to professional contexts as a means of resolving ethical dilemmas is fundamentally flawed. That this is a common-place conception of the role of a code is one of the more interesting features to arise out of the survey of nurses for this thesis. The UKCC code of conduct was unanimously regarded as an important and welcome addition to the ethical life of the professional nurse yet at the same time seen by the majority as *ineffectual in guiding conduct*. This tension reflects a widespread assumption that the principles and rules of the

code should be able to fix determinately what ethically should be done in any particular situation, and dismay and disappointment were frequently expressed that the code failed to do this. What this suggests is that the majority of nurses surveyed were working implicitly with a Moral Theory conception of the code expecting the principles and rules it contains to be directly applicable to practice. This can be seen in the following extracts taken from three of the interviews (in each case a copy of the 1992 UKCC Code of Professional Conduct for the Nurse, Midwife and Health Visitor, was present for the nurse to refer to).

Example 1

Male, age 29, Macmillan nurse

[question] Have you read the UKCC Code of Conduct?

[answer] Yes.

[question] How important do you think the code is?

[answer] It's very important. Obviously if you deal with vulnerable people in the way we do it's very important that you do what is right. You must have some ethics otherwise patients could be abused in all sorts of ways.

[question] Do you find the code useful in choosing what you should do when you confront a real-life situation?

[answer] In what way do you mean?

[question] Well, try to think of situations you have been in where you were not really sure what you should ethically do, did you actually use the code of conduct, and if so, in what

way did you use it? Or if you have never used the code in this way could you imagine doing so?

[answer] I wouldn't say that I use the code in situations like that, I can't think of a situation in which I have. I usually use my experience to make a decision. ... I do sometimes look at the code later to check if what I did is ok. We also sometimes use the code when we have staff meetings if we are discussing cases.

[question] Do you think if you carried the code around with you, you could use it to make an ethical decision when a problem arises?

[answer] No not really, the problem is the code asks you to do lots of different things and you can't do all of them. Number 1 [interviewee points to clause 1 of the code] says act always to promote the well-being and interests of the patient, but number 10 [interviewee points to clause 10 of the code] says that you can reveal confidential information about the patient if it is in the public interest. You can't do both of these at once can you?. The code can't tell you which one of these you should do, so in the end you have to make your own mind up.

[question] Do you think this is a weakness in the code?

[answer] Yes.

[question] Can you think of anyway in which the code could be improved to get round this problem?

[answer] Not off-hand, but I think they [the UKCC] need to make it clearer so that we know which rule is meant to apply in different situations.

Example 2

Female, 52, sister (general ward)

[question] Have you read the UKCC Code of Professional Conduct?

[answer] Yes.

[question] How important do you think the code is?

[answer] I think it's very important, although I'm not sure much notice is taken of it?

[question] Can you explain what you mean by that?

[answer] I think ethics is absolutely important to our relationship with patients. The trust that a patient has to have in the doctors and nurses that treat him can only be got if he thinks that we only act in ways that are ethical. ... You wouldn't give your money to a bank manager that you thought was a thief, so why should a patient trust a nurse who he thinks is unethical?

[question] But what did you mean when you said that you didn't think nurses took much notice of the code?

[answer] I suppose I mean that there is not much evidence that anyone actually uses the code to make ethical decisions. Speaking for myself I make my own decisions based on years of experience ... and I think other nurses do the same thing, anyway, that's what my colleagues certainly do.

[question] So why did you say that you thought the code was very important?

[answer] I think it's important that there is some sort of statement of ethical principles for the profession as a whole so that everyone can see that we work according to ethical principles.

[question] How do you square that with your claim that you yourself don't actually use the code to make ethical decisions, that seems a bit contradictory don't you think?

[answer] I can see that that's a bit of a problem. ... I think the code of conduct acts as a sort of safety net to prevent abuses of a nurse's power, but it's too vague to tell you what to do in real situations on the ward. In the end you have to make your own judgements and accept responsibility for what you do.

[question] Do you think the code could be improved in any ways to get round the problems you have identified?

[answer] I'm not sure. I suppose it could be made a lot clearer so that we [nurses] know how to use it. Perhaps we could also be given more training on how to use it.

Example 3

Female, age 32, Health Visitor

[question] Have you read the UKCC Code of Conduct?

[answer] Yes.

[question] How important do you think the code is?

[answer] I'd say that it is important that we've got a code, ethics are really important these days, ... but I think most of us are not sure what we're meant to do with it.

[question] Can you explain what you mean when you say you're not sure what to do with the code?

[answer] ... We're given the code and told how important it is, in fact we're told we can be struck off the register for breaking any of its clauses, but no one tells us how to use it. It seems a bit woolly to me ... if you look at the things it says you should do they're all too vague to help ... in the end it's a matter of what you personally think is right.

[question] I think I get what you mean, but can you give me any examples so I can get clearer? Which clauses would you say are too vague to help? [interviewer passes the code of conduct to the nurse]

[answer] All of them really. ... Look at clause 15 [for example]: as a health visitor I often visit the same clients on a regular basis which means I build up a bond with them, which I think is good practice. However this means that I am often given little gifts as a sign of their appreciation- it might be some flowers, a bottle of wine or something else. If I was to refuse these gifts most of my clients would take it as an insult and it would ruin all the effort I had put in to building up a good relationship with them. I think, because they receive so much care from me they like to give a little something back so they don't feel a complete burden, it puts them at ease. ... But according to clause 15 it could be argued that I am in breach of my duty not to accept gifts. The code doesn't help in deciding what is right: I would say I was right to accept these small gifts but someone else might say I was wrong, who's to say?

[question] Do you think the code should be able to help you decide what is right to do in the sort of situations you have just described.

[answer] Well, yes, if we are going to be judged by a code it only seems fair that we should be able to see clearly what the code says we should do. It's not fair that we could be struck off for breaking the code if it isn't clear what the code actually means, it's all a bit arbitrary in my view.

.....

In each of the extracts above there is a clear expectation that the UKCC Code of Professional Conduct should, somehow, provide explicit principles and rules that can be applied in specific circumstances to resolve specific moral problems. There is an accompanying sense of frustration and concern that the code fails to do this. However, *the arguments of this chapter show that codes of conduct could never fulfil this function. The fact that principles and rules are intrinsically non-codifiable, and can never be understood separately from practice (the actual instances of their application), means that there is a central and irreducible role for situated individual judgement and deliberation (Aristotelian phronesis, or the like).* It is of the utmost importance that the professions and professionals understand this fundamental point if the abuse of codes and a consequent scepticism towards them is to be avoided. There has been a tendency to see the production of a code in itself as a sole means to realising ethical conduct in the professions (even more so in the world of business ethics). Codes are handed out to professionals with little or no other form of guidance on the assumption that the individuals concerned should be able to read straight off from the clauses of the code what it is that they are required to do. This has been fuelled largely, I would argue, by an implicit acceptance of the Moral Theory dogma that the principles and rules of a code are to be applied deductively to practice. The failure of this dogma, however, has led to scepticism about the usefulness of codes (as evidenced in the examples above) and a consequent claim from many writers that codes of conduct merely serve an ideological function in protecting the power of the professions. Both of these attitudes are justified so long as a profession sees a code of conduct alone as the sole tool of ethical reasoning and justification of its practice. The reason for this should be clear. A

code of conduct serves as a profession's primary statement of its ethical values and thereby represents its explicit claim to moral justification for its practice. However, if it stands *alone* as a profession's ethical resource then the radical openness to innumerable interpretations that follows from the problem of codifiability means that it can serve no useful function other than to "... protect professional autonomy from general moral scrutiny."⁴⁶. As the nurses themselves recognise, the inherent indeterminacy of the stated principles and rules of the nursing code render it open to all sorts of possible interpretations such that almost any form of behaviour could be justified (for example, by playing one principle off against another, as suggested in example 1 above)⁴⁷. It is deeply ironic that the strongest case for adopting The Moral Theory Approach to professional ethics arises from a perceived need to justify the ethical values of the professions, yet it is the very adoption of this approach which makes it possible to avoid providing a genuine justification.

(i.g) Codes of Conduct as Narrative Frameworks

However, codes of conduct need not be seen as useless for guiding practice, or incapable of playing a justificatory role for a profession's ethics. Once we are freed from the dogma of a Moral Theory conception of codes of conduct there remains the possibility of providing a contextualist account of their use. Indeed, properly construed, codes of conduct slip very neatly into the contextualist account of rule following I gave above (pp.103-106). Key to this account is Wittgenstein's claim that rules cannot be understood separately from practice. This has the crucial implication that practical moral reasoning makes ineliminable reference to the goods at stake in following a rule one way rather than another. This in turn ultimately depends on providing some sort of narrative account which enables the morally salient features of a situation to be practically related so that they take on a certain moral shape which itself justifies (or fails to justify) why one follows a rule in the way one does. In providing such an account I try to get you to see the sense of what I do rather than argue for the acceptance of some universal principle. My claim is that *codes of conduct can be usefully construed as providing a framework within which professionals can construct the narratives essential to the production and justification of ethical life*⁴⁸. This entails a

rejection of the idea that the principles and rules of a code represent ready-made premises for application to practical situations as a part of a deductive argument (The Moral Theory Approach). Instead, the *principles and rules of a code should be understood as a (partial) specification of the central goods that a practice seeks to realise*. They identify the important and recurrent moral values that lie at the heart of a professional practice. In the daily life of the professional they direct her to address those values practically in the course of carrying out her duties. And in moments of critical reflection they demand that the narratives professionals construct to describe and justify their practices are likewise structured and constrained by the fact that they must plausibly account for the role of the values that the code embodies. On this reading the principles and rules of a code cannot determine what should be done but rather act as reminders of the values that professionals must consider in the conduct of their professional life⁴⁹.

The contextualist conception of a code's function not only explains why no code can determine what particular action should be done in a specific circumstance (and thereby *dissolves* the main objection levelled against codes by professionals and others), but also shows why codes nevertheless have an important role to play in professional ethics. As Jennifer Jackson has argued, it is crucial to a profession that divergences in practice are avoided; public confidence in a profession depends fundamentally on the assumption that all the professionals in a practice speak with one voice⁵⁰. A well functioning code which provides a clear framework that professionals recognise as making specific demands on how they (narratively) account for their practices (by, for example, demanding that they show how confidentiality is protected, competence perfected, autonomy respected etc.) provides a key to ensuring consistency and coherence in practice across a profession.

(i.i) Codes of Conduct and Professional Dialogical Structures

Clearly a code alone could not guarantee this. It is crucial to the whole contextualist (narrative) approach to the use of a code that it is embedded within a variety of dialogical structures that enable professionals to engage in an ongoing debate regarding the correct

interpretation of the code. The sort of dialogical structures I have in mind here include: ethics committees, staff meetings, conferences, professional training, professional research, advisory documents, interest groups etc. A well functioning code is precisely a code that facilitates and focuses wide ranging professional debate across these various forms of communication. However, it must be stressed that a code can only serve this function if it is indeed the case that it is explicitly incorporated into these sorts of dialogical processes. The widespread scepticism about the usefulness of the UKCC Code of Professional Conduct exhibited by the nurses surveyed for this thesis can in large part be located in a failure to incorporate the code more centrally into the dialogical structures of nursing. For example, out of 369 respondents to the nursing ethics questionnaire distributed for this thesis only 42 nurses claimed to have received "adequate" training in how to understand and use the code, all the rest claimed their training was "inadequate", none claimed that it was "more than adequate" (see appendix I (a) and (b)).

However, the interviews conducted for the thesis did provide one clear example of a nurse who worked in team where the Code of Professional Conduct was incorporated into practice in the contextualist way I have outlined.

Example 4

Female, age 24, staff nurse (psychiatric ward)

[question] Have you read the UKCC Code of Conduct

[answer] yes.

[question] How important do you think it is?

[answer] Very important.

[question] In what ways is it important?

[answer] ... In my job I deal with people who suffer all sorts of psychiatric disadvantages. And we [the nursing team] recognise that it's really important that we consider all the moral implications of the way we treat them [patients]. These people are some of the most abused people around so it's even more important for us to be aware that we treat them with the respect they deserve. We see ethics as a part of their treatment ... to get them back to a state where they are capable of becoming an independent person again. ... Psychiatric medicine and nursing doesn't have a good record on these issues and I think we're now very aware that we have to show that we do what is right.

[question] I'm interested by what you said about ethics being part of the treatment of the patient, can you tell me a bit more about that?

[answer] ... One of the biggest problems we have to deal with is the patient's low sense of self-esteem, they've usually been abused in one way or another all their life and constantly made to feel like dirt or told they're useless ... they're usually shunned by society. A part of our nursing regime is to treat them according to the same ethical standards as we like to be treated ourselves. This is an important part of building up their self-esteem, to make them feel they belong again.

[question] Can I get back to the code of conduct for a moment, would you say the code helps you in deciding what is ethically right to do?

[answer] Yes, we find it very useful. We use seven different models of nursing on the ward depending on what's appropriate for the patient concerned and we use the code alongside these models.

[question] Can you tell me a bit about how you use the code? How do you use it alongside the models of nursing you use?

[answer] Basically the different models of nursing we use relate roughly to different levels of psychiatric disfunction or ability in the patient so we select the appropriate model for the patient. We then interpret the code according to the model we're using.

[question] Can you give me an example? Take clause 5, for example, which says that you must "foster independence" in the patient, I presume that's an important principle in your field?

[answer] Yes it is. ... the level of independence you can encourage in a patient though depends on the psychiatric state of the patient concerned, some are more able than others. What we've done at work is try to define what concepts like "independence", "autonomy" mean depending on the model of nursing used. For one person independence could mean going to the toilet alone, for another it might be going to Tesco's.

.....

As a result of this interview the nurse in the last example was subsequently shadowed (by the author) on her ward for a day in order to establish the nature and extent to which the code of professional conduct was integrated into everyday nursing practice. There was ample evidence in this instance that she and her colleagues on the nursing team had incorporated the key principles (goods) of the code into the structure of their actions and decision making procedures. As suggested in the account of following a rule described above, the real-time integration of the principles and rules of the code into working practice was largely pre-reflective. For example, the nurse (and her colleagues) did not appear to stop to reflect upon what the principle of promoting patient autonomy required in any particular situation but acted directly (pre-reflectively) to realise this goal. However, when interviewed again after her shift had finished the nurse was able, when questioned about her

specific nursing interventions, to account for her actions precisely in terms of promoting patient autonomy, for example:

[question] I noticed that at lunch you got Tom to make his own food even though he said he didn't want to- some people might say that you breached his autonomy by doing that, what would you say?

[answer] Not at all, it's to get him to be more autonomous that I got him to do his own dinner. A big problem for our patients is they've become so used to having things done for them all the time and they'll let you do everything if you let them. We have to force them to do things for themselves sometimes to encourage them to take responsibility for their own lives. ... The whole point of what we're aiming at is to get them into a position so that they can look after themselves independently, doing the small everyday tasks like cooking and shopping might seem trivial to other people but they're really important.

Responses like this were typical and reflected a concern and ability to articulate the goods lying behind the principles and rules that were implicitly acknowledged and incorporated in working practice. In this case the UKCC Code of Professional Conduct was not seen as useless in guiding practice but provided a constructive tool for focusing critical reflection on how central ethical values could be incorporated into nursing practice. What is crucial to note about the nurse's use of the code is that it is overtly contextualist and anti-Moral Theory, and it is precisely because of this, I would argue, that it is seen as helpful rather than useless (or even hostile).

To conclude the chapter I hope to have demonstrated two major claims in the course of the preceding arguments. First, that the principle of universalizability cannot serve the justificatory role that is the primary motivation for invoking it in the first place. This, I claimed, rests fundamentally upon the problem of codifiability. Universalizability requires that a principle or rule is (explicitly) codifiable or statable separately from any particular

context of application in order to be applicable to all contexts. The radical uncodifiability of principles and rules demonstrated by Wittgenstein's arguments about rule following show that this essential requirement cannot be fulfilled; no rule (or principle) can be understood separately from its applications (separately from practice), thus the principle fails.

Secondly, however, I hope to have at least begun to have shown that the loss of the principle of universalizability is not to be mourned as a loss of the very possibility of moral justification and moral reasoning per se (as Moral Theorists fear). Rather its rejection should be seen as a liberation. It enables us to focus upon the development of a contextualist/narrative conception and process of moral reasoning which preserves the idea that we can engage in genuine critical reflection but in ways that are not uselessly formalistic. The genuine adoption of a contextualist approach to codes of conduct, which would involve a commitment from the professions to establishing the appropriate structural resources for professionals to engage in open dialogue about the role of key ethical values in practice, would have two major benefits. First it would negate the scepticism of individual professionals concerning the use and function of their particular code of conduct. Secondly it would signal to the general public that a profession takes its code seriously thereby negating the sceptical view that a code of conduct serves no purpose other than to protect the status and vested interests of a powerful group of people. It is precisely this commitment to providing a contextualist incorporation of codes of conduct into practice that would provide a code with all the justification that it could reasonably have.

¹ It is also sometimes described as the "deductive paradigm" in applied ethics see, for example: A MacIntyre, "Does Applied Ethics Rest on A Mistake?", 1984, *The Monist*, Vol 67, pp498-513. A MacIntyre, 1985 (second edition), *After Virtue*, London, Duckworth. J McDowell, "Virtue and Reason", 1979, *The Monist*, Vol.62, pp.331-50. ER Winkler and JR Coombs (eds), 1993, *Applied Ethics*, Oxford, Blackwell. As MacIntyre puts it: "Applied ethics derives its conclusions from sets of premises in which conclusions drawn from ethics [Moral Theory] are conjoined to factual finding about some specific social and intellectual area. Its rational claims upon our attention depend first then upon the justifiability of the account of morality which it presupposes; secondly, upon the warranted character of its account of the structures of medical or legal or political or military or business institutional and social relationships; and thirdly, upon its ability to derive its conclusions rationally from its premises." (ibid. 1984, p.499). Note, none of the authors cited, nor myself, claim that typically professionals in practice explicitly draw upon Moral Theory in this way. Rather the claim is that Applied Ethics, which is concerned both with justifying and guiding particular moral judgements, demands this sort of deduction. So, for example, the Applied Ethician will seek to show that a particular stretch of practical reasoning can be demonstrated to conform to some explicit or implicit universal principle. Much more about this claim below.

² Andrew Edgar, ("Narrating social work" in RF Chadwick (ed), 1994, *Ethics and the Professions*, Aldershot, Avebury.) notes that the term "code of *conduct*" suggests that the code concerned is overtly a disciplinary tool whereas "code of *ethics*" suggests a more general statement of the principles guiding a particular practice (p.132). His point is well made, however, the expressions "code of conduct" and "code of ethics" are typically used much more loosely in the literature and are frequently interchanged with no intended change of meaning. Accordingly, I shall use the terms as synonymous unless I explicitly state otherwise.

³ For a clear exposition of this view see, NGE Harris, "Professional codes and Kantian duties" in RF Chadwick (ed), 1994, *Ethics and the Professions*, Aldershot, Avebury. I mention his work below.

⁴ For a clear exposition of this approach to codes of conduct see, A Edgar, "Narrating social work" in RF Chadwick (ed), 1994, *Ethics and the Professions*, Aldershot, Avebury.

⁵ It is, perhaps, not insignificant in the light of this comparison that one way in which Kant formulates the categorical imperative is "Act as if the maxim of your action were to become through your will a universal law of *nature*." (my italics)

⁶ J Dancy, 1993, *Moral Reasons*, Oxford, Blackwell, pp.79-80, notes that there is an important difference between universalistic theories which universalize principles according to whether others could or should do likewise in similar circumstances; he argues that Kant belongs to the former school of thought and R.M Hare the latter. Hare's conception of universalizability contains a prescriptive element which is absent in Kant's conception.

⁷ Quoted in Cicero, *On the Good Life*, translated by M Grant, 1971, Harmondsworth, Penguin Books Limited p.11.

⁸ See, P Singer, 1993 (second edition), *Practical Ethics*, Cambridge, Cambridge University Press. Singer sees the practical life of the individual as split between self-interest and the moral point of view which he argues necessarily involves the universalizability of judgements: "[we must see] ... ethics as in some sense necessarily involving a universal point of view." (ibid, p.316). See also, RM Hare, 1963, *Freedom and Reason*, Oxford, Oxford University Press.

⁹ I Kant, 1785, *Groundwork of the Metaphysics of Morals*, translated by HJ Paton, 1981, *The Moral Law*, London, Hutchinson.

¹⁰ See: R.J Sullivan, 1994, *An Introduction to Kant's Ethics*, Cambridge, Cambridge University Press, ch.2. And, HJ Paton, 1981, *The Moral Law*, London, Hutchinson, pp.18-23.

¹¹ In seeing the contradictions uncovered by application of the categorical imperative as *practical* I am following the work of C Korsgaard and O'Neill. See: C Korsgaard, 1996, *Creating the Kingdom of Ends*, Cambridge, Cambridge University Press. O'Neill, 1989, *Constructions of Reason: Explorations of Kant's Practical Philosophy*, Cambridge, Cambridge University Press. Both Korsgaard and O'Neill argue that the practical contradictions uncovered by the categorical Imperative include a "contradiction-in-conception test" and a "contradiction-in-the-will test".

¹² At this stage I do not want to raise the question about whether acting from certain moral dispositions, emotions, or sentiments counts as employing a reason for one's action. If one understands the idea of a reason liberally then one could say that if I act in the way I do *because I feel* the cruelty in doing otherwise would be immoral, this counts as acting for a reason. However, my concern here is to identify the particular sort of reasons employed by Moral Theorists such as Kant which require that they are explicitly stated in the form of maxims, rules or principles.

¹³ See, R Audi, 1989, *Practical Reasoning*, London, Routledge, pp.64-5.

¹⁴ Kant does obviously recognise that we do not always formulate our intentions (reasons) into explicit maxims of action in every act of practical reasoning. However, the crucial point is that this can always be done (by making the implicit maxim of action explicit), and indeed must be done if we wish morally to justify a particular action.

¹⁵ GEM Anscombe, "Modern Moral Philosophy", sees this as a fatal flaw, "His rule about universalizable maxims is useless without stipulations as to what shall count as a relevant description of an action with a view to constructing a maxim about it." reproduced in JG Haber, 1993, *Doing and Being*, New York, Macmillan.

¹⁶ See footnote 12 above. [cpr A133-134]

¹⁷ RM Hare, 1963, *Freedom and Reason*, Oxford, Oxford University Press.

¹⁸ See, RM Hare, 1963, *op cit*, pp.36-46.

¹⁹ Hare, then, seeks to counter the usual objections against Kant that the general principles he "deduces" from the categorical imperative are either too vague to be any use or are too vulnerable to specific counter examples (as in the case of the beneficent lie). However, the very specificity of the principles "deduced" from Hare's version of universalizability brings into question how they can have "a bearing outside the particular case", and hence undermines the very point and purpose of universalizability in the first place.

²⁰ See for example: O O'Neill, "Consistency in Action" in NT Potter and M Timmons (eds) 1985, *Morality and Universality*, Dordrecht, Reidel. And, A Gewirth, 1978, *Reason and Morality*, Chicago, University of Chicago Press.

²¹ See for example: K-O Apel, "Is the ethics of the ideal communication community a utopia?", in S Benhabib and F Dallmayr (eds), 1990, *The Communicative Ethics Controversy*, Cambridge Mass. MIT Press. J Habermas, 1989, *Moral Consciousness and Communicative Action*, Cambridge Mass. MIT Press.

²² Benhabib's account of the principle of universalizability combines two self-consciously moral principles: the principle of universal respect, and the principle of egalitarian reciprocity (1992, pp.30-38). For the claim that Benhabib's reformulation of the principle of universalizability is still strongly universalist in requiring that moral principles must be such that anybody *could* adopt them, see note 23 below.

²³ Benhabib's "proceduralist" reformulation of the principle of universalizability does not escape this requirement. First, to know that one's particular principles conform to the universalistic requirements of fair argumentation one must be able at some stage to state explicitly what they are. Secondly, if one's principles are genuinely to conform to the requirements of universalizability one must show that anyone *could* adopt them. As much as Benhabib seems to want to escape the full force of this second conclusion (because she wants to avoid the overly abstract versions of discourse ethics of Apel and Habermas and show ethics to be much more sensitive to the concrete experiences of individuals) her commitment to universalism make this impossible. She is able to reject the idea that all others *should* act on the same universalizable principles by rejecting the need for universal consent. However, she must retain the principle that one ultimately has to be able to show that anyone *could* act on the same principle(s). This comes out very clearly in her own illustrations: for example, on page 45 (*ibid*) she notes that her theory would require that society *tolerates* the practices of various specific communities such as Muslims and Mormons. She argues, however, that where there is conflict between the specific practices of the group and society's charge to uphold the principles of universal respect and egalitarian reciprocity the latter always "trumps" the interests of the former: "In cases of a conflict between the principles of right which make coexistence possible among adherents of divergent conceptions of the good and principles of other more partial conceptions of the good, *of which we know that they cannot be generalized beyond their specific adherents*, the right trumps over that particular conception of the good." (*ibid*,p.45) (*italics mine*). This just is to require that any particular individual's or group's principles *could* be adopted by anyone (see also pp.32-33).

²⁴ See, Bernard Williams, 1995, *Making sense of humanity: and other philosophical papers*, Cambridge, Cambridge University Press, pp195-6. Indeed, it is precisely for this reason that Williams argues we need to consider the "professional dispositions" if we are to make any sense of the idea of a specific professional ethics at all. The reason, of course, is that if the propositional content of rules alone fixes our moral requirements then there will be no substantive divergence between ordinary ethics and professional ethics.

²⁵ Both philosophers, then, clearly represent adherents to the Moral Theory Approach to applied ethics which sees the philosopher's role as charged with applying universalistic Moral Theory to practical situations. They recognise that the committees of professionals who construct their own code of conduct are extremely unlikely to deduce its principles and rules from the universalistic principles of some form of Moral Theory. Thus, the grounding of a particular ethic in the universal ethics of Moral Theory is a distinctive task for philosophers, either in cooperation with the professionals concerned, or, as in the case of Harris's article for example, as an isolated act of showing how some code(s) could be (re)formulated in terms of a universal theory

²⁶ In fairness to Veatch he does argue that we do not have to wait for "...normative ethics disputes to be resolved before some rules are developed." as "we can agree on some basic norms shared sufficiently to permit

social intercourse and the development of a shared sense of rights, duties, and responsibilities." (p.13).

However, if the whole thrust of Veatch's argument is correct that commonly agreed norms amongst a group of people do not amount to a moral validation of those norms unless they are grounded in a set of universally applicable principles, then those basic norms he mentions also must be subject ultimately to the same form of validation.

²⁷ See, John Rawls, 1971, *A Theory of Justice*, Oxford, Oxford University Press.

²⁸ For a fuller exposition of Veatch's "triple contract" theory see, R Veatch, 1981, *A Theory of Medical Ethics*, New York, Basic Books.

²⁹ P Singer, 1993 (second edition), *Practical Ethics*, Cambridge, Cambridge University Press, p.316.

³⁰ A MacIntyre, "Does Applied Ethics Rest on A Mistake?", 1984, *The Monist*, Vol 67, pp498-513.

³¹ It seems quite clear from this quote that the members of this committee make the same assumption that Harris and Veatch do, that the concrete moral values adopted in the context of a particular sphere of interest stand in need of justification from the universal perspective of a set of moral principles.

³² In short, the problem about what it is that drives us from case to case is that the only plausible candidate seems to be a principle, i.e. we note in one particular case that x was the reason why we did y so in the next case if we find x present we have reason to do y (this in effect lays down a principle). However, that would mean the case study approach is subject to the very same criticisms levelled at The Moral Theory Approach, which it is supposed to replace. If it is not to be a principle then what? I am not advocating here that one should not make good use of case studies (as will be seen, I will suggest they can be very useful). I am merely warning against the temptation to think that what we decide is relevant in one case can lay down a reason for acting in exactly the same way in another case.

³³ L Wittgenstein, 1958 (second edition), *Philosophical Investigations* (translated by GEM Anscombe), Oxford, Basil Blackwell.

³⁴ Here I am indebted to John McDowell's very lucid explanation of Wittgenstein's views in "Reason and Virtue" (op cit)

³⁵ I should, perhaps, point out that Wittgenstein's arguments are addressed generally against the rationalistic account of rule following and not simply against Moral Theorists.

³⁶ Wittgenstein sums up what is wrong with the intellectualist explanation in the following quote: "... how does an explanation help me to understand, if after all it is not the final one? In that case the explanation is never completed; so I still don't understand what he means, and never shall!"- As though an explanation as it were hung in the air unless supported by another one." (op cit, p.40-1, (87))

³⁷ A modern example of this approach is provided by the computational theory of the mind. Key to this approach is the claim that the cognitive abilities of individuals are explained by the possession of internal sub-conscious programs (sets of rules). For a classic exposition of this approach see: D Dennett, 1986, *Brainstorms: Philosophical Essays on Mind and Psychology*, Sussex, Harvester Press.

³⁸ S Cavell, 1969, *Must We Mean What We Say?*, New York, Charles Scribner's Sons. Quoted in J McDowell op cit. pp.338-39.

³⁹ For one famous attempt to read Wittgenstein's claims sceptically see: S Kripke, 1982, *Wittgenstein on Rules and Private Language*, Oxford, Blackwell.

⁴⁰ As Colin McGinn notes: "The feeling that I do need to turn to something else arises from the fact that the rule I am following could in principle be *interpreted* in indefinitely many ways, it just being a sign. Wittgenstein's claim is that when I am presented with such a sign ... I act unhesitatingly and am not paralysed by the lack of guidance from elsewhere- and not because my actions are somehow *irrational*." (C McGinn, 1984, *Wittgenstein on Meaning*, Oxford, Blackwell, p.20n)

⁴¹ For this view of what Wittgenstein implies see, for example, C Taylor, 1995, *Philosophical Arguments*, Massachusetts, Harvard University Press, ch.9, pp165-180.

⁴² See: L Blum, 1994, *Moral Perception and Particularity*, Cambridge, Cambridge University Press. J Dancy, 1993, *Moral Reasons*, Oxford, Blackwell. J McDowell, "Virtue and Reason", 1979, *The Monist*, Vol.62, pp.331-50. D McNaughton, 1988, *Moral Vision: An Introduction to Ethics*, Oxford, Blackwell. I Murdoch, 1970, *The Sovereignty of the Good*, London, Routledge and Kegan Paul. M Nussbaum, 1990, *Love's Knowledge*, New York, Oxford University Press.

⁴³ The terms "salience" and "shape" I take from: J Dancy, 1993, *Moral Reasons*, Oxford, Blackwell.

⁴⁴ See also: C Taylor, 1995, *Philosophical Arguments*, Massachusetts, Harvard University Press. ch.3, pp34-60). Taylor is heavily influenced by A MacIntyre, "Epistemological Crises, Dramatic Narrative, and the Philosophy of Science", *The Monist*, 1977, Vol.60. pp.453-472. For an example of the use of this conception of practical reasoning in the field of nursing see: P Benner, "The role of articulation in understanding practice and experience as sources of knowledge in clinical nursing", in J Tully (ed), 1994, *Philosophy in an Age of Pluralism: The philosophy of Charles Taylor in question*, Cambridge, Cambridge University Press. pp.136-155.

⁴⁵ This has the important implication that rationality must be described substantively rather than procedurally (this issue will be addressed fully in the final chapter).

⁴⁶ A MacIntyre, *op. cit.* p.512.

⁴⁷ The flip side of this coin, of course, is that the same indeterminacy makes it possible to interpret all sorts of different behaviour as immoral in light of the principles of the code. This possibility is recognised by the nurse in the third example above, who correctly sees this as a serious problem when the code is used as a disciplinary device.

⁴⁸ This is the view put forward by Andrew Edgar (*op. cit.* p.127 *passim*). I would argue that there is a strong case for claiming that the narrative conception of a code implicitly underlies the explicitly stated functions of UKCC professional code of conduct which include: "Emphasising the primacy of the interests of the patient or client", "The Code as a portrait" [of the sort of professional a nurse should be], "The Code as an extended definition of 'accountability'", "The Code as the 'misconduct' backcloth" (R Pyne, 1992 (second edition), *Professional Discipline in Nursing, Midwifery and Health Visiting*, Oxford, Blackwell Scientific Publications pp.28-32).

⁴⁹ For a defence of this conception of the role of principles see, J Dancy, *op. cit.* pp.66-71.

⁵⁰ J Jackson, "Common codes: Divergent Practices" in RF Chadwick (ed), 1994, *Ethics and the Professions*, Aldershot, Avebury, pp.116-24. Jackson notes that divergence in *application* of a rule or principle is an acceptable and natural part of professional judgement: for example, there are a variety of ways in which a nurse can maintain and improve her professional knowledge and competence (clause 3 of the UKCC code) or safeguard the interests and well-being of patients and clients (clause 1 of the UKCC code). What is intolerable is divergence in *practice*: for example, that some nurses simply disregard certain principles of the code of conduct, or see them as having no relevance to nursing practice. Interestingly, if such a divergence were to happen the best explanation of its occurrence would have to refer to the idea that different conceptions of the goods of nursing was at stake.

CHAPTER 4

IMPARTIALITY: THE SELF, AND PROFESSIONAL ROLES

"To behold virtue in her proper form is nothing else than to exhibit morality stripped of all admixture of sensuous things and of every spurious adornment of reward or self-love."
(Immanuel Kant, **Groundwork of the Metaphysic of Morals**)

"Putting your thumb on the scales on your own behalf, or on the behalf of those of whom you are fond, is not a particularly pretty picture, morally."
(Robert E Goodin, **Utility and the Good**)

"In abstracting from my values, my everyday aims and preferences, from all that constitutes my contingent condition, I abstract also from the circumstances of my act - and, in particular, from the desires and interests which initially raised for me the question of action."
(Roger Scruton, **Sexual Desire**)

Introduction

The principle of impartiality is another crucial strand in the attempt of Moral Theorists to resolve the Basic Question for ethical theory I identified in chapter 2 (namely, to show how a stretch of practical moral reasoning can incorporate the fact that it needs to reflect reasoning that is specifically mine in order to motivate me, yet at the same time reflect standards that transcend my own specific concerns). What Moral Theorists typically attempt to do is show two things: first, that each of us individually has a reason to be impartial, and secondly, that each of us individually can in fact reason practically from an impartialistic perspective¹. If this can be done, of course, room is made for reasons that satisfy both the need to reflect my specific concerns and also reflect transcendent or external standards. In this chapter I shall be concerned almost exclusively with the second of the issues raised above, and with the corresponding question of whether it is actually possible, or plausible to claim, that practical moral agency can be conducted from an impartialistic perspective. The reason for this is simple but very important. Moral theorists have standardly started with the first of the issues, with the question of whether we have a reason to be impartial, and typically rest the very possibility of moral conduct on a positive answer to this. The motivation for this is easy to see: I have already noted above (chapter 3) that a necessary feature of the moral point of view is that it involves third-personal considerations

that transcend the merely personal desires of an individual, and this immediately seems to provide an overwhelming prima facie case for adopting the principle of impartiality as this appears to offer the only thorough-going realisation of the third-personal perspective, the apparent alternative seeming to be a rejection of the very possibility of genuine moral reasoning². The argument runs roughly as follows: each one of us lives out a unique life in which one's individual self-identity is significantly constituted by personal attachments and the way in which one responds to the particularities of the historical, social, and environmental contexts within which one acts (I shall hereafter refer to this conception of the self as the "narrative self"³). A fundamental requirement of morality, however, demands that our principles and values apply to everyone irrespective of the individual differences between them. Thus, our moral values and principles must transcend the particularities of each of our individual lives and reflect demands that apply universally. It seems to follow, then, that the moral self or agent must reason from a perspective that significantly differs from the perspective of the narrative self where her concern is to express herself in and through all the various particularistic relationships in which she is involved. Thus, moral agency is identified with the perspective of impartiality. The moral agent through adopting the perspective of impartiality "unencumbers"⁴ herself of the distorting effects of her attachments to particular persons and projects and reasons morally from a position that in some important sense is a position we all can or should adopt.

It is deceptively easy, then, for Moral Theorists to convince us that the principle of impartiality is a necessary presupposition of the moral point of view (in effect identifying impartiality with the necessary third-personal element of morality). And if we accept this, a consequent task for ethical theory and applied moral philosophy inevitably becomes a search for a practical representation of the principle of impartiality in human agency. However, I shall argue that this general argument - moving from the (putative) reason(s) we have to be impartial to how impartiality can be instantiated in actual practical reasoning - has (mis)led to much fruitless philosophy. I shall argue that if we begin with the second question it becomes very apparent that the idea that moral agency can be conducted from an

impartialistic perspective is extremely implausible. I shall then argue further that adopting the principle of impartiality is actually unnecessary in providing an adequate account and validation of the third-personal component of the moral point of view. This in turn will show that the idea that the principle of impartiality is central to morality is fundamentally mistaken.

.....

(i) The Impartial Agent and the Narrative Self

The question that immediately arises, then, concerns how according to The Moral Theory Approach one is supposed to incorporate the principle of impartiality into the actual process of practical moral reasoning. In short, the general answer is that one applies the principle by adopting the perspective of an *impartial observer*⁵, and from the observations made from this perspective one determines and justifies individual maxims of action. What this requires, in whatever form, is that the individual *abstracts* from the contingent features that constitute her self-identity, for example, her personal attachments to other particular individuals such as her family and friends, and to particular projects such as her career or ambitions, and considers what her duties are from the position of a *detached* and universal moral agent.

It should be clear, then, that under The Moral Theory Approach any notion of the narrative self (incorporating all those sorts of personal attachments just referred to) is excluded from the development of final moral values and principles. This is not to deny, of course, that it is in the life of the narrative self that the possibilities for moral or immoral action are generated and sustained; rather the point is that the moral assessment and validation of those possibilities is conducted from a position outside of the particular involvement of the narrative self⁶. This has two very important implications for the structure of moral reasoning. First, the impartiality of the moral agent also implies the *impersonality* of the moral agent: for example, in viewing her own relationships from the moral perspective an agent must detach herself from the commitment she might have towards those relationships

as a narrative self and assess them from a position of neutrality'. Secondly, the impartiality of the moral agent supports a distinction between a *private* realm of an individual's life where she is free to pursue her own self-interests and a *public* realm in which the way in which one's activities affect the lives of others automatically invokes moral obligations. One might schematise the distinctions as follows:

(figure 4)

<u>MORAL AGENCY</u>	<u>THE NARRATIVE SELF</u>
Impartial	Partial
Impersonal	Personal
Public	Private

The split between the moral agent and narrative self (the partial and impartial, personal and impersonal, private and public) that is required for the practical implementation of the principle of impartiality, however, raises a very pressing question concerning how these two perspectives are supposed to relate to each other or be reconciled in the life of an individual. The principle is, of course, supposed to provide a solution to the Basic Question. However, once it is realised that the practical implementation of the principle requires the adoption of the perspective of an impartial observer who has to stand outside of her own actions and view them entirely neutrally, it is hard to see how the principle can provide anything other than a hindrance to a solution. In short: "How are the actions of a single individual supposed to incorporate the fact that she is both pursuing the life of a person in which she reasons practically from the position of a socially situated narrative self *and* pursuing the life of a moral agent in which her practical reasoning proceeds from the perspective of an impartial observer?". Michael Stocker has strikingly described this picture of the moral agent as involving a "schizophrenic" conception of the individual⁸. He argues, that to identify the moral perspective with that of the impartial observer is to remove the source of moral motivation too far from the motivation of what I have called the narrative self. Morality is supposed to provide reasons for acting one way rather than another, yet the

moral agent construed as an impartial agent appears to have no reason to act all⁹. The problem this causes is, of course, a notorious one, for the moral obligations generated from the impartial universal perspective frequently come into conflict with the interests of the situated (partial, personal, and private) narrative self which give an individual life its meaning and worth. Thus on the one hand we find ourselves obligated by the *prima facie* "overridingness" of moral requirements¹⁰ and on the other hand the impossibility of living a worthwhile or meaningful individual life without ignoring very many of those same moral requirements. Moral sainthood (to coin Susan Wolf's phrase¹¹) is bought at the cost of living a life in which an identifiable, personal self is ignored or denied. This has driven many authors, such as Williams, Wolf, and Stocker et al, to conclude that we should frequently reject the moral (so construed) in pursuit of certain important self interests that lend a life its meaning or purpose¹². However, this conclusion is deeply disturbing for theorists supporting The Moral Theory Approach (and indeed also for many not of that persuasion); the very idea that moral obligations can, or indeed should, be relegated beneath the claims of non-moral self interests presents a damning blow if not an outright refutation of Moral Theory (how could the universal be outweighed by the particular?)¹³.

Naturally many Moral Theorists have attempted to develop solutions to this situation by showing how the pursuit of self-interests can be reconciled with the dominant claims of morality. Samuel Scheffler, for example, argues that (impartial) consequentialist thinking represents the common ground between us (the moral given in our common experience is that the consequences of an act or proposed course of action will always count morally) but that there are other non-consequentialist reasons that we might resort to in deciding what to do in certain situations¹⁴. He claims that there are concerns that are *naturally* grounded in the independence of the personal point of view and which stand outside of the calculation of best state of affairs that is appropriate to impersonal consequentialist morality. The position we deliberate from is what Scheffler calls a "distributive hybrid" which requires the individual to maximise the greatest overall consequences except in cases where there is an option to do otherwise (where this option will in some sense be justified from the personal

perspective)¹⁵. Scheffler also notes in the same work that instead of adopting the hybrid strategy it is possible for consequentialists to incorporate the personal perspective within the moral by accepting that it is ultimately for the overall good (the greatest amount of happiness) that individuals are permitted on occasions to pursue their personal interests¹⁶.

However, rather than comment upon these and other attempts at solving the problem of reconciling the personal and impersonal (which I think all fail and which I shall mention as appropriate in passing) I wish to attack directly the principle of impartiality which generates the difficulties in the first place. Rather than separate the concept of the self and moral agency as The Moral Theory Approach demands I will argue instead that we need to see the two notions as inseparable in any adequate account of ethical life. Accordingly, I will support Charles Taylor's claim that: "Selfhood and the good, or ... selfhood and morality, turn out to be inextricably intertwined themes." (C Taylor, 1989, *Sources of the Self*, Cambridge, Cambridge University Press, p.3)

My strategy will be to show that *the distinction between the moral agent and the narrative self is untenable*. I shall seek to do this by showing the account of practical reasoning implied by this distinction which divides reasons up into those which are impartial (and therefore purely moral) and those which are partial (and therefore purely personal) is seriously flawed. I shall identify a third category of reasons that is neither purely impartial or purely partial. These will be reasons that contain an *inextricable* mix of both impartial and partial considerations, properly construed. I shall then establish that this category of reasons does indeed provide genuine moral reasons for action. Finally I shall argue that these reasons provide an essential part of an accurate account of practical moral agency. The superiority of this alternative account to The Moral Theory Approach will be demonstrated by its ability to identify and invoke reasons that present a genuine resolution of the Basic Question which is simply unavailable to Moral Theorists¹⁷. The reasons I shall discuss in this respect are those that are put forward by individuals in the capacity of occupying a professional role. I shall examine some extracts taken from the interviews with

nurses and show that the only plausible interpretation of them demonstrates that the reasons they articulate in thinking and acting as they do stem fundamentally from a personal identification they have with their professional role.

(ii) Acting in a Professional Role

The concept of a role and in particular the concept of a professional role presents, I shall argue, a clear case in which ethical reasoning proceeds from a perspective that is in crucial respects neither impartial or partial. If this claim can be upheld it will indeed deal an extremely severe blow to the principle of impartiality (and The Moral Theory Approach) because it is frequently argued that it is in acting in some public office or professional role that we can see the claim of the principle at its strongest. Thomas Nagel, for example, in his article "**Ruthlessness in Public Life**" (1979) argues that in filling a public role the individual filling it is "depersonalised" (p.77) or "morally encapsulated" (p.75) by the role in a way which isolates her in many important respects from her personal or private life. As functionaries carrying out a public service they instantiate a basic principle that:

"Public policies and actions have to be much more *impartial* than private ones ... since *there is no reason in their case to leave room for the personal attachments and inclinations that shape individual lives.*"

(T Nagel, 1979, *Mortal Questions*, Cambridge, Cambridge University Press, p.84. (my italics))

The main concern of Nagel's article is to consider how a public role can isolate the individual filling it from taking blame for actions performed in that capacity that would otherwise be blameworthy if she did it in purely a personal capacity. And the thrust of his argument is that the impartiality of the role bearer, the fact that she seeks to realise the goals prescribed of her office and not serve her personal interests (combined with a genuine justification of those public goals) justifies her in doing what in a purely personal capacity would be morally unacceptable. Nagel, then, supports the commonly held view that public roles more clearly than anything else demonstrate the moral importance of the principle of

impartiality. In particular he stresses the connection between the requirement of impartiality and impersonality of a public role (ibid, p.89).

Now there is a natural sense in which public or professional roles are impersonal in that the practical and moral obligations that define the role (in effect, the corresponding job description) apply to anyone that fills that role ¹⁸. For example, if an individual is contemplating becoming a nurse it is possible to find out in advance what minimum obligations would apply in her particular case by discovering what minimum obligations apply generally to such a role (by consulting the UKCC code of conduct, job descriptions, etc.). Indeed such is the case for virtually all occupational roles. However, this notion of the impersonality of roles is apt to mislead for it represents nothing like the sort of impersonality which requires application of the principle of impartiality when one comes to actually fill certain roles. In focusing exclusively or primarily upon the explicitly stated obligations and duties of a role there is a tendency to see these duties and obligations as exhausting both the definition of the role concerned and the moral responsibilities and values it entails. If this were indeed the case then it is easy to see why one might consider the moral values and responsibilities of a role as being generated from an impersonal/impartial perspective, because, as I have just noted, the role itself is initially defined in impersonal terms. However, what seems clear, both theoretically and from the empirical evidence gathered in this thesis (and elsewhere), is that at least for certain important roles when they come to be filled by an individual who relates to it in a non-instrumental fashion, the occupant of the role extends an understanding of its requirements far beyond the obligations and duties that are determined from a purely impersonal/impartial perspective. I shall go on to argue shortly that *this extension cannot be accounted for by further impersonal considerations but requires that the role is in an important sense absorbed into the motivational set of the narrative self of the agent filling the role*. The idea that there is in certain cases an absorption of the role into the motivational set of the narrative self, will provide an important part of the answer to the Basic Question, for as I shall attempt to show, *in absorbing the role into my motivational set I recognise reasons to*

act that in stemming from a role represent considerations that transcend my purely personal interests but because they have been thus absorbed also represent reasons for action that are genuinely reasons for me. It is in this sense that I shall claim they represent reasons that are neither impersonal nor personal. However, in order to elucidate what I mean by this notion, and, to establish the credibility of my claim I first need to make an important distinction between two different sorts of roles, or perhaps more precisely two different ways in which a role can be filled.

(ii.a) Instrumental and Identity-Confering Roles

Nagel, I believe, like many others, fails to take account of a crucial distinction between roles understood purely or primarily as a *set of duties* or obligations, and roles understood as *vocations* or as *identity-conferring* ^{19 20}. The first type of roles I shall label instrumental roles. Instrumental roles are filled purely or primarily according to the set of obligations that delineate them; the occupant sees herself primarily as an instrument in realising the ends laid out by the role; thus crucially they do not in any significant sense contribute to the self-identity of the person filling the role. They are typically carried out in a way in which one's commitment to them is exhausted by performing the explicitly stated duties or tasks they lay upon one. For example, a dry-cleaner might find her commitment to her role exhausted in the fulfilment of the duties or tasks laid out in the job description of the role. She need not relate to it in any other way than in a purely instrumental fashion- as a set of tasks undertaken to realise a good (for example, money) external to the intrinsic nature of the tasks concerned. So considered she will not see that role as conferring any sense of identity upon her, and the duties and tasks concerned are not absorbed into the motivational set of her narrative self. By that I mean she is not motivated by the intrinsic nature of the tasks themselves but purely or primarily by the external good or goods she is able to realise in performing them. She does what she does for reasons that speak to her indirectly through the obligations she has taken on by accepting employment as a dry-cleaner.

The second type of roles, roles considered as vocations, are, however, significantly identity-conferring. Identity-conferring roles, as the name suggests, represent important constituent elements of the narrative self. They represent those roles to which individuals attach themselves in (partly) defining who they are. Thus *a nurse who relates to her role as a vocation sees herself not merely as an instrument in realising the goals of certain pre-specified tasks but in an important sense also realises herself in and through performing the tasks which she is required to carry out.* Understood as a vocation in this sense it is the intrinsic nature of the tasks of nursing themselves which provide the nurse with motivation to secure their ends independently of the presence of an external good. By this I do not mean that the realising of certain goods external to the intrinsic nature of the tasks of nursing are unnecessary, such as, for example, receiving a salary for the work completed, but rather, that there is a clear sense in which the realisation of this or another external good is bracketed off as a consideration in motivating the carrying out of particular tasks. She does what she does for reasons that speak to her directly as *the nurse that she is*. The goals of nursing are *her* goals, not merely the impersonal goals of an organisation that she is an instrument in realising. The nurse who sees her role as identity-conferring does not inhabit the role as she might inhabit a building- in a crucial sense she *is* (in significant part) the role. Thus, whereas she might leave a building unchanged she could not quit this particular role without some change in her self-identity. However, the dry-cleaner (nurse, etc.) who perceives her role instrumentally could abandon her role with no real change in her self-identity.

What I hope should be clear from this brief discussion is that *the idea that roles are strictly impersonal only attaches to the instrumental model.* The fact that an identity-conferring role is absorbed into the motivational set of the narrative self of an agent demonstrates that this sort of role is in very significant respects not impersonal. Now the respects in which the non-impersonality of an identity-conferring role is significant relate to the idea I mentioned above that an individual absorbing such a role will extend her understanding of its requirements beyond its explicitly stated, hence impersonal, job description. Shortly I shall

give some examples of this and in so doing attempt to show how an identity-conferring role while not being impersonal is also not to be described in purely personal terms either.

I should perhaps note at this point that none of what has been said so far makes any claim about just what sort of occupational roles do or do not allow for the possibility of identity-conferring role absorption. I do not rule out, for example, the possibility that dry-cleaning may indeed provide the resources which would enable an individual, at least to some extent, to absorb the role into the motivational set of the narrative self. However, neither do I rule out the possibility that the empirical conditions of some occupational roles will indeed exclude such a possibility. My concern here is not to resolve that particular question but rather simply to note at this stage that the professions like nursing certainly do enable occupational roles to be undertaken as identity-conferring roles and that this is a quite distinct form of a role from an instrumental role.

But do individuals fill occupational roles in an identity-conferring fashion? The empirical evidence (gathered for this thesis) that they do is overwhelming. Of all the nurses interviewed for this thesis only four participants could be described as taking a thoroughgoing, explicitly instrumental role view of their occupation (I shall discuss these cases below), the rest quite clearly (although to different degrees) saw their professional role as identity-conferring or vocational. In the majority of cases their responses show that in making professional decisions (practical and moral) they did not consider the situation from two different perspectives, the private self and the professional role, nor indeed, and this point is crucial, did they consider the situation simply from the perspective of the professional role as if it was detached from their "private" self. Rather, they make decisions from the perspective of the individual who *is* that particular nurse. In essence their sense of their professional role and their sense of their narrative self unite inextricably in one causal order²¹. And this, in effect, is what I mean by role absorption. The dialogue that follows below is quoted from one of the interviews with a nurse and I think captures this point very well. The nurse concerned is a ward sister (manager) on a specialist renal ward, 48 years of

age, who was undertaking a nursing degree in which she had undertaken a module (taught by the author) in the philosophy of health in which an ethics component was studied :

Example 1

Female, age 48, Ward Sister (Manager) (renal unit)

[question] Do you think that the ethical theories of Immanuel Kant and utilitarianism are any use in making moral decisions at work?

[answer] Well, I think they're very interesting to study and I enjoyed the discussions of our group in class, but in the real world they don't work do they? For one thing you just don't have the time to sit back and think what these philosophers would say, its just not like that.

[question] Is it just a problem of time; I mean do you think that if you had the time to think the issues through one of these theories could prove to be useful in providing answers to particular moral problems?

[answer] No, not really, well it's not just that anyway. When you gave us those examples in class, in our group we all sort of agreed on the answers but it wasn't because we had thought that Kant or Mill or whoever would have said so. We're just nurses and I think we just thought like nurses with a lot of experience of nursing patients. I can't see how you could stop being who you are I can't see how you can do it any other way, I am a nurse so I think like one. If I was to try to think differently I couldn't really do my job properly.

[question] I'm interested that you say you don't think you could do your job properly if you tried to think differently, do you think you can explain that a bit more to me?

[answer] Well, it's not that we shouldn't listen to other ideas and that, it's that I can't see how I could stop thinking like a nurse. If I did then I wouldn't be treating my patients properly.

[question] why would that be?

[answer] It's hard to say really, but it's just like that you just act straight away because you are a nurse. ... My job is about caring for my patients; when you put your arm around someone who is upset you do it because you are a nurse. You don't stop and think would Kant accept this ... or Mill, you just see a patient who needs help and you help them as best as you can.

I think it is quite clear throughout this extract that the nurse concerned is reasoning from a position in which her professional role is understood according to the identity-conferring vocational model. The idea that her comments might fit an instrumental role model just simply fails to observe the facts. Her role has indeed been absorbed to a very high degree into the motivational set of her narrative self. She thinks as a nurse in the way she does because she is a nurse; being a nurse just is a significant part of being her and the two aspects unite in a single causal order. Just how strong this identification is, is particularly apparent in the way in which she finds it unintelligible how it could be possible to separate a process of moral thinking from her understanding of herself as a nurse. The very attempt to do so leaves her at a loss. And this sentiment I found to be expressed consistently in the interviews with nurses generally, including those like the nurse above who were familiar with the ethical theories of Kantianism and utilitarianism and who were asked the same question. Not one felt that she could identify her own moral perspective with either of these approaches nor indeed felt that they ought to, and the prime reason that they cited for this is that it involved a detachment from the sense of herself as a nurse. Actions and behaviour that they felt to be of particular ethical significance in their working lives seem to lose that

significance if the impartialist, impersonal perspective is adopted. The most cited issue in that respect concerned the notion of caring for the patient.

(iii) Caring in a Nursing Role

The idea that caring is a central feature, indeed the fundamental feature upon which all of nursing is ultimately based, is, widely accepted. Patricia Benner, for example, notes that, "Caring practices are central to nursing. What it is to be a nurse cannot be separated from what it is to care about others" (1994, p.141). Certainly this view has been confirmed by the research carried out for this thesis; it is articulated both by the profession itself in its code of conduct and by the professionals themselves in the interviews and questionnaires. That the nurses interviewed focus upon care and caring in expressing a rejection of the impartialistic perspective (both implicitly and explicitly), however, is a striking affirmation of the work of a growing number of authors (philosophers and nurses) who have likewise focused upon the notion of care in rejecting the impartialistic (and universalistic) perspective of Moral Theory²². Accordingly I will focus upon (the issue of) caring in the next few pages as it presents an opportunity to clarify what my main objection to the principle of impartiality is. I shall seek to show that, first, caring is (indeed) understood by the professionals themselves as a central *moral* concept in nursing practice, and secondly, that it represents a very good example of the sort of moral concept that is neither impersonal nor purely personal that I need in order to reject and replace the principle of impartiality.

It is undoubtedly no coincidence that most of the authors who reject the principle of impartiality from a care based perspective are women who approach the issue of care from a feminist viewpoint and that most nursing roles are, of course, filled by women. This strongly suggests that their understanding of caring as such cannot be detached from an understanding of themselves (in certain important respects) as a woman. Nell Noddings, for example, makes the following point:

"Women, in particular, seem to approach moral problems by placing themselves as nearly as possible in concrete situations and assuming personal responsibility for the choices to be made. They define themselves in terms of caring and work their way through moral problems from positions of one-caring ... the process of moral decision making that is founded on caring requires a process of concretisation rather than one of abstraction."

(N Noddings, 1984, *Caring: A Feminine Approach to Ethics and Moral Education*, Berkeley, University of California Press. p.8)

The crucial point about caring is not that it is somehow essentially tied up with the very fact of being female but rather that its recognition and importance rests upon the fact that women typically experience morality in *concrete relations* to others rather than in terms of abstract rationalistic principles²³. These facts are sociological rather than biological, and, as Noddings herself notes, there is no reason why men cannot come to share an understanding of the importance of care and caring in moral life. Indeed, in the empirical research carried out for this thesis in which 11 male nurses were interviewed there were no significant differences between them and female nurses with respect either to the importance attributed to care in nursing and in the expression of the qualities they felt caring entailed in practice. Accordingly, I shall focus my attention upon what is involved in filling the role of a nurse in bearing out Noddings' claim just quoted that "...the process of moral decision making that is founded on caring requires a process of concretisation rather than one of abstraction.". *I shall argue that the process of concretisation required for caring in the nursing role is fundamentally a matter of absorbing the role into the motivational set of the narrative self.* In other words, that caring as a nurse is crucially linked to regarding the role as an identity-conferring vocational role. It is, indeed, precisely in these terms that I would seek to explain the similarity of attitudes and behaviour between male and female nurses.

(iii.a) Task Oriented Caring and Patient Oriented Caring

Let me turn, then, to the specific case of caring as a nurse. Now as that role is laid out in the UKCC Code of Professional Conduct (1992) the requirement to care is expressed in many

formulations that set out certain conditions of caring, for example section 7 of the code demands that each nurse must, "...recognise and respect the uniqueness and dignity of each patient and client, and respond to their need for care, irrespective of their ethnic origin, religious beliefs, personal attributes, the nature of their health problem or any other factor.". So stated, of course, these formal requirements represent an impersonal demand upon anybody filling the role of a nurse. However, all the evidence suggests that typically once the role is actually filled by someone becoming a nurse the substantive content that is given to the notion of caring in the actual practice of caring presents an extension of that concept in ways that cannot be reduced to those impersonal requirements nor accounted for by further impersonal considerations. To make my point it will be useful to distinguish between two possible notions of caring, one I shall label "*task oriented caring*", the other "*patient oriented caring*".

Under the task oriented approach caring is in essence fulfilled by carrying out the formally specified duties of the nurse: for example, administering drugs, changing dressings, bathing patients, checking monitors, etc.. What it is to care for the patients is thus a matter of performing with efficiency those formally specified tasks that are required to restore them to health. This conception of caring is one promoted, for example, by JM Morse, J Bottorff, W Neander, and S Solberg, in an article "**Comparative analysis of conceptualisations and theories of caring**" (Image, 23, 1991, pp.119-26), indeed, they argue that such an approach to caring is essential to nursing:

"If the relevance of caring to practice and to the patient cannot be clearly explicated, or *if* it is claimed that caring cannot be reduced to behavioural tasks, *and* if caring is the essence of nursing, then nursing no longer will be a practice discipline."²⁴

This notion of caring fits in very well with the impersonal instrumental model of a role: caring is indeed exhausted by performing the discrete tasks specified as belonging to the

role of the nurse. However, as Patricia Benner points out, it represents a conception of caring generated from the peculiar perspective of a certain sort of social scientist:

"When caring is studied in traditional social scientific ways, it is decontextualised, operationalised and turned into delimited behaviours or factors with the implied technical promise that performing these discrete caring behaviours will be perceived by a second private individual as caring and result in specifiable physiological, psychological and social outcomes."²⁵

(P Benner, "The role of articulation in understanding practice and experience as sources of knowledge in clinical nursing" in J Tully (ed), 1994, *Philosophy in an Age of Pluralism: The philosophy of Charles Taylor in question*, Cambridge, Cambridge University Press)

Benner, who has conducted a considerable amount of empirical research into nursing care, argues that the task oriented approach to care is philosophically misconceived and empirically insupportable²⁶. The research I have undertaken for this thesis strongly supports this claim. What is missing from the task oriented model of care is the sense in which *caring involves two individuals in a particular concrete and contextualized relation to each other*. It abstracts the concept of a patient and caring too far from the fact that each patient to be cared for is a unique person and that each nurse has interest in the particular care she provides for each patient.

To make my point it will be useful, here, to apply and adapt some terminology introduced by Seyla Benhabib in her book "Situating the Self" (1992, Oxford, Polity Press). Benhabib identifies two ways in which one can recognize and respond to another individual as a moral agent: as a "generalized" other and as a "concrete" other. In treating the other as a "generalized" other one treats her as "... a moral person endowed with the same moral rights as ourselves." (ibid, p.10). The generalized other is the other considered at the most abstract level in which individual differences are ignored and what is common to all is recognised as the appropriate source of moral action. The generalized other, then, is the other considered as an equal among the universal community in which each is treated identically. In treating

the other as a "concrete" other, however, one treats her as a "... unique individual, with a certain life history, disposition and endowment, as well as needs and limitations." (ibid, p.10). Here, the primary concern is to recognize the other as a particular individual with a particular identity; and the source of moral action lies in responses sensitive to the idiosyncrasies of the particular individual.

Now, adapting this distinction to the phenomenon of caring it should be apparent that the task oriented model of caring treats the patient solely as a generalized other. The tasks and duties that constitute caring on this model are all defined in abstraction from the particularities of the individual patients in receipt of care. The only relevance that the particularity of the patient has for the care process is the fact that it is necessary that some particular patient contingently instantiates generalized symptoms which require generalized nursing interventions.

Patient oriented caring is quite different: according to this model it is the patient identified as a whole individual that is the person cared for: i.e. the patient considered as a generalized *and* concrete other. Now, adapting Benhabib's distinction again, it follows that in caring for the patient as a concrete individual it is the patient as a *particular* individual that is the focus of care. Care particularity (as Lawrence Blum calls it²⁷), identifies as a necessary feature of any actual and genuine care relation that the individual cared for cannot be reduced solely to a generalised or objectified receiver of care. The cared for is always a particular individual with a particular personality and history, and genuine care for her must always involve some response to her as that particular individual with that particular personality and history. Thus, on this model of caring the care for each individual patient must extend beyond a general and explicitly stated set of behavioural tasks to one which incorporates an individualised or particularised expression of care in the concrete relation of care giver to care receiver. The nurse cited above in example 1 made precisely this point; she claimed that while each patient on "her" renal ward could expect to receive the "same treatment", each patient needed to be "cared for differently" because each patient "responds

differently" to their condition and has "different care needs" in this respect²⁸. Some further extracts drawn from interviews undertaken for the empirical research should bring out the significance and differences between the patient oriented and the task oriented models of care. In what follows examples 2-4 represent, I shall argue, cases in which a patient oriented model of care has been adopted; example 5 represents a case in which the task oriented approach to care has been adopted.

Example 2

Female, age 54, Matron (in a private nursing home)

[question] Can you tell me what you believe caring for a patient actually involves?

[answer] It involves a whole lot of things, and it depends very much on who the patient is and what he wants or needs. Some patients just want to be left alone and that's fair enough, but usually they want someone [the nurse] to show that they care for them as an individual. It's not just about wiping bottoms and giving them tablets, you need to show them that they matter, that they're still important. In my area of work people [patients] often feel like they've been abandoned, ... that they have become a nuisance, that they're just hanging around for no good reason waiting to die, so I think it's very important to get to know my patients as persons and give them something to live for.

[question] How do you do that?

[answer] ... I try to sit with them as much as possible and chat to them about their lives. I always ask them about what they did when they were younger, what job they had, where they lived, and things like that, and about their families and get them to show me photographs and momentos. If I show an interest in them they start to show an interest in themselves.

[question] Does that help?

[answer] Yes, it makes a big difference for them to know that someone cares about them, about who they are. You can see a change in them when you get to know them as a person and they can see that you care. ... When they first come in they're usually very upset and ready to give up hope, if you care for them properly and get to know them like I have just said, you can really help them come to terms with their change in circumstances.

Example 3

Male, age 29, Macmillan Nurse

[question] Can you tell me what you believe caring for a patient actually involves?

[answer] For me caring for your patient means understanding what support he or she needs in coping with their illness. Each patient is an individual and each one will cope with their illness in different ways. ... You need to know what sort of person they are to know how best to care for them.

[question] Can you give me any examples to explain what you mean?

[answer] In my job I visit patients in their home and frequently I have to give them bad news ²⁹. Usually I'll have visited the patient many times so will have got to know them quite well, so I will know pretty well what sort of person they are and how they have coped with the effects of their illness. So when I have to tell them some bad news I do it in a way that I believe is best for them to cope with. ... [For example], some patients don't like any fuss and just want you to tell them the truth and leave them alone to get on with it, others need you to sit with them and give them a hug or hold their hand while they have a good cry. With some patients you need to think very carefully about how to tell them the truth because you know that they might misunderstand the consequences of what you have to tell them;

for example, some think that if you tell them their cancer is inoperable they're going to die within days when the prognosis is that they might last a year or more. You always have to think very carefully what they are capable of understanding and how best to help them understand. ... Also some patients want you to tell their relatives because they can't face telling them themselves, others don't want the relatives told at all. Each person is different and each person has to be cared for differently according to their needs.

[question] When you get to "know" a patient in this way how involved with them do you get? By that I mean do you get to know them in a way in which you detach your own personal feelings from the situation and observe what they require in a sort of scientific fashion, or do you get to know them in a way which is more like how you relate to your friends?

[answer] I don't think either of those is right really. I am a nurse and they're the patient and it would be inappropriate to treat them as if they were just one of your friends; that could cause no end of problems and would be unprofessional. However, you can't just detach yourself from them either. I think if I was too detached I wouldn't be able to relate to my patients, I would seem too cold and they wouldn't want to share with me their own feelings about their illness and treatment, so I wouldn't really get to know them properly, I mean, would you tell a complete stranger your innermost secrets? ... It's somewhere in-between really: you need to keep a certain distance to be able to carry out your job, if you got too emotionally involved you'd have a breakdown, but if you don't get involved at all then there wouldn't be any point in being a nurse.

[question] Why wouldn't there be any point in being a nurse?

[answer] Well, the whole point of nursing is to care and if you can't care or don't like caring why be a nurse?

[question] So you would say that caring must include some sense of being personally involved with the patient then?

[answer] Yes, in the way I just said.

Example 4

Female, age 43, Staff Nurse (working in a hospice)

[question] You said that good caring was the most fundamentally important aspect of your work as a nurse in a hospice, can you tell me a bit more about why it is so important and what you think good caring involves?

[answer] Any patient who ends up in a hospice is, as you know, terminally ill. What we can do for them is care for them in a way which makes the last stages of their life as comfortable, dignified, and meaningful as possible. Most of their problems are not to do with pain, we can control that with drugs ... mostly their problems are how to come to terms with the fact they are going to die. How I care for them can make a huge difference in how they cope with their last moments. ... Providing quality care is essential. I would say that the most important aspect of the care I give is to be there as someone they can trust and confide in. They need to be able to tell me how they feel: how scared they are, how lonely they are, how they feel a burden on their family, how angry they are, ... If they can open up about all these things they always manage to cope with their illness much better than if they bottle things up.

[question] How do you gain their trust?

[answer] At first patients are usually very wary and unsettled so you need to be careful not to move too quickly in trying to gain their trust. I usually chat with them briefly, show them around the hospice, introduce them to other patients and so on. If you move too quickly it looks like you're intruding on their personal space. As they gradually settle in they become more familiar with the hospice and with me and you start to build up a closer relationship. You soon begin to get a picture of what sort of person they are, what they like, what they don't like, and you become able to respond to their needs. It's mainly a matter of being there for them when they need you, ... if you know them well enough you pick up on signs and behaviour which enables you to know that they need help. [for example] It might be something really simple: the other day I noticed that an elderly male patient had not gone to the t.v. room to watch his favourite programme so I knew something was up as he always watches it. Because I knew this about him I was able to talk to him and find out that he was really upset about something. I think he was able to trust me because he could see that I had noticed he needed help, and I only knew he needed help because I cared about him enough to notice little signs like that.

Example 5

Female, age 26, Staff Nurse (ENT ward)

[question] What would you say is involved in caring for your patients?

[answer] I think it's a matter of looking after them and making sure that you do your job properly. You make sure that they get the right drugs at the right time, get fed and watered, ... are made comfortable, get their dressings changed ... and that sort of thing.

[question] So, would you say that caring is about doing those duties that you're paid to do as a nurse?

[answer] Yes.

[question] What do you think, then, about the idea that caring for patients should involve getting to know them at a more personal level?

[answer] I disagree; I'm not paid to make friends with the patients, I'm there to do a job. My responsibilities to the patients are to look after them like I just said, I don't think I should have to get to "know" them personally. ... sometimes you get to like certain patients, but that's not part of the job, that's something else ... to be honest most of the time they [patients] can be a right pain in the neck and it's as much as you can do to hold back from having a go at them.

... [question] Would you say that you identify yourself as a nurse?

[Answer] I'm not sure what you mean?

[question] What I mean is; if you had to describe what sort of person you are to me or someone else how important is it to your sense of personal identity that you are a nurse? Or to put it another way, is nursing just a job to you or do you see it as a vocation?

[Answer] Oh, definitely a job, I get sick of it when people treat me as if I'm a nurse 24 hours a day, they think that because you're a nurse you must be a certain type of person, some angel. Nursing is my work not my life, I do it to pay the bills.

.....

In all of the examples above each nurse has recognised that a duty to care is one of the requirements of occupying the role of a nurse. But what is equally evident is that the way in which the duty to care is realised in the actual professional practice of the nurses in examples 2,3 and 4 is radically different from the nurse in example 5. In 2, 3 and 4 the caring involved extends far beyond the performance of formally specified tasks and duties

which in example 5 is considered to exhaust the responsibility to care. For each of these nurses (2,3, and 4) the caring in which they engage is fundamentally informed by the concrete relationship that exists between themselves and the particular patient in receipt of care. *The patient is treated not merely as a "generalized" other but also as a "concrete" other.* What is clear is that the nurses treat the health problems encountered by the particular patients not as discrete symptoms requiring discrete interventions but by placing those problems within the context of the unique life of the patient as a whole. It is only through this process of concretization that they become sensitive to, and able to respond to, the care needs of the patient.

(iii.b) Caring as a Nurse is Neither Personal or Impersonal

The key aspects of the process of concretization revealed in many of the comments made in the interviews above (and in the other interviews and questionnaires) support the major claims set out at the beginning of this chapter. Most importantly the process shows how there can be reasons for action that are neither strictly personal nor strictly impersonal. If we take example 3 again (the Macmillan nurse) we can see that the nurse's understanding of the process of concretization is one which he describes in terms of a reciprocal response to each individual patient contextualized by the unique historical, psychological and sociological (etc.) qualities and experiences of the individual. However, in responding reciprocally to the patient the nurse makes it explicitly clear that he does so through reasons and dispositions that constitute his understanding of the goods and requirements of his professional role. He does not respond to her as, say, a close friend would where it would be appropriate to relate to her simply as another like himself, thus his reasoning is not merely personal. But he also explicitly rejects the idea that he could respond appropriately to the patient if he were entirely detached in his relationship to her, thus he rejects the idea that his responses are strictly impersonal. Rather, he represents a perfect example of someone who has to a significant extent absorbed his professional role into the motivational set of his narrative self. His whole approach to caring, his understanding of what it involves

and the way he cares in practice is quite clearly that of a nurse, but crucially it is the caring of *the nurse that he is*. His relationship to his role as a nurse is vocational or identity-conferring, not instrumental, thus *the dispositions from which he acts are both those which represent his own dispositions and dispositions which reflect a (third-personal) conception of what constitutes a good nurse*. For example, his commitment to truth-telling, essential for the trust his patients must have in him as a nurse, is made concrete by his individual responsiveness to the particular needs of the patient cared for. Thus he recognises that the process of truth-telling is as important as the truth itself, that a hug at this time can be crucial in demonstrating genuine care for the individual whose life is affected by the truth he tells her. Truth-telling, for him, is not something he perceives as a duty generating from some formal principle which demands it, but is a key component in *his* care for the particular individual. Sara Fry captures his understanding and motivation nicely in the following quote:

"Through truth-telling, the nurse assists the patient to assess the subjective as well as objective realities in illness and to make choices based on the unique meaning of the illness experience. Through touch, the nurse assists the patient in overcoming the objectness that often characterizes a patient's experience in the health care setting. To touch the patient is to affirm the patient as a person rather than an object and to communicate the value of caring as the basis for nursing actions."

(ST Fry "The Role of Caring in Nursing Ethics", in HBequaert Holmes and LM Purdy (eds) *Feminist Perspectives in Medical Ethics*, Indianapolis, Indiana University Press, p.96)³⁰

It is worth stressing that the disposition to care for the patient that he manifests is quite distinct from the disposition to care that would be manifested by a friend. In each case the disposition to care personally motivates the individual to act; however, the content of the disposition to care is constituted differently- in the case of the nurse by considerations that transcend mere personal interest. Thus it is quite clear, I would argue, that he reasons and responds through his identification of himself as a nurse in ways that cannot be described as merely personal nor impersonal. The same points hold for the other examples (1, 2, and 4)

cited above. It is also exemplified in the following extract taken from one of the written reports sent in by a nurse in response to a nation-wide request advertised in nursing journals to nurses to write to the author describing any moral dilemma(s) they have encountered in working life.

Example 6

(written report)

Female, (RGN) Occupational Health Nurse

[This nurse wrote in describing herself as a committed "feminist and socialist" but nevertheless as someone who holds "moral objections to abortion", and someone who believes that "abortion is bad for female health, for physical, social and psychological reasons"]

"I have held a number of posts as an occupational Health Nurse. One of these was in a luxury hotel in London, where there were many young women. On about 5 occasions, I was called upon to counsel women seeking abortion. This usually involved dealing with requests for information, about how to obtain an abortion. But I had a good rapport with my clients, and many of these women were seeking support in their decision, from me.

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I faced the dilemma of caring for these women and not wanting to inflict my views on them. At the same time I felt I was not being true to myself if I gave them abortion information without telling them how I really felt about it, and I felt that I would also be lying to them, if I neglected to tell them this.

I further believed that abortion would probably cause them problems in various ways in the future, and they should be warned of the risks that are there. ... Only with all information

can women make personal ethical decisions and I believe that as a health professional I had a duty to do this to the best of my ability.

But I did not want to hurt the women who had come to me for help and I did not feel I had any right to condemn them. I made many mistakes in dealing with these and other subsequent situations in other jobs. Eventually I made the decision to deal with any woman coming to see considering a termination in this way: I would give them as much information as I knew, including why I am against it. I also let them know that even if I may disapprove of their decision, I would still offer them support and could not condemn them. I felt this way I was being true to everyone.

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Every women I ever dealt with thanked me for supporting her, even those who knew of my moral stance. I believe I managed to alienate nobody. ... Some women had their terminations. They still came back to see me for support... I truly believe that I behaved to the best of my ability as a nurse, and that I acted with the best interests of the women at heart at all times. ..." [see appendices for full transcript]

.....

Again one can see in this extract that the disposition to care personally motivates the individual to act. But perhaps even more obviously so in this case, that disposition to care cannot be given content in terms of purely personal interests. On the contrary her purely personal interests (i.e. her objection to abortion) would prescribe quite different responses to the ones she gives. However, she neither abandons these clients nor passes them on elsewhere (which is a professional option), but sees and feels that *as a nurse she* must support them. It is only because she *identifies* herself with her role as a nurse that she cares in the way that she does, and, indeed, is motivated to do so in the first place.

.....

(iv) Moral Reasoning in an Identity-Conferring Role

The picture of practical moral reasoning generated by the considerations raised in this chapter point conclusively to a very different conception from that founded on the principle of impartiality proposed by Moral Theorists. In exercising (moral) professional judgement, I would argue, it is clear from the examples 1, 2,3, and 4 (and the overwhelming majority of others not here discussed) that the practical reasoning and response to patients of the nurses interviewed is not founded upon the application of impartial principles and rules generated through a process of personal detachment, but proceeds directly from dispositions to care that exist as a part of the motivational set of their narrative self. It is precisely this that enables them to care with the particularity required to respond to the needs of the specific patient.

It should also be becoming clear now how this contextualist picture of the moral agent resolves the problem of moral agency raised by the Basic Question. What it shows is that the first-personal and third-personal components of the moral point of view are not two entirely separate perspectives but are inextricably united in the process of moral agency. Thus, moral reasons are neither strictly personal or strictly impersonal, neither purely partial or purely impartial. Moral agency is (shown to be) a process of acting from dispositions and for reasons that are my own through being *made* my own as a response to factors that arise "independently" of my own pre-reflective desires. However, these independent factors are only independent insofar as they represent reasons why *I*, being *who I am* (a nurse, a mother, a sister etc.), should recognise them as such. It is the attempt to describe morality in purely impartialist and third-personal terms, separate from any consideration of a person's narrative self, that renders the Moral Theorist incapable of establishing a plausible connection to first-personal motivation.

(iv.a) Objections

Before I conclude this chapter I will deal briefly with some objections that might be raised against the account I have just given.

(iv.b) People Do Not Always Identify with a Role

First, it might still be protested that the account of role absorption into the motivational set of an individual I have presented is implausible because it is clear that people neither identify solely nor completely with a particular role. This is of course true and nothing I have said would dispute this claim, nor need it. First, my account quite clearly makes room for the fact that people identify themselves with a whole variety of different roles, thus, for example, someone might identify herself as a nurse, a mother, an aunt, a wife, a mountain climber, a Moslem, etc., etc.. Indeed, many of the more traumatic and tragic ethical dilemmas professionals face occur precisely because they feel the motivation to act from *conflicting roles that they have absorbed into their motivational set*³¹. In fact the existence of these moral dilemmas only make sense if the sort of account I have provided in terms of role absorption is true³². Secondly, my account accepts that role absorption is something that happens in degrees and is never something that can be regarded as completed. The picture of moral development and the pursuit of moral excellence that I have implicitly hinted at in this chapter, recognises that the concretization and dialogical activities (mentioned below) involved in role absorption are a continual process. The good professional is the professional who understands the importance of continued reflective practice, and that just is (in an important sense) to recognise that role absorption is never complete, that the content and exercise of one's professional dispositions is always subject to criticism and refinement.

(iv.c) Caring is Not a Moral Concept

A second objection might suggest that everything I have just said about caring is fine but that care and caring have nothing at all to do with morality and ethics, but belong solely to the realm of personal and private relationships . Hopefully the previous points I have made should already undermine such a claim, any way, this objection is clearly question begging. What it does, in effect, is simply define the sphere of morality as that which is identical with impartiality; however, precisely this identification is the question at issue. There appears to

be little more than theoretical prejudice lying behind the rejection of care as an ethical concept and value given the widespread common-sense view that it forms one of the most important ways in which we ethically relate to another. Lack of care in a variety of contexts, nurse to patient, mother to daughter etc. , is regarded as blameworthy not simply because it is a dereliction of duty but morally blameworthy because it shows a failure of the individual to respond appropriately to the needs of the other. Conversely, we hold as moral exemplars those who demonstrate genuine care in their relation to others.

(iv.d) The Principle of Impartiality is Necessary for Moral Criticism

A third objection commonly raised is that without the principle of impartiality and the perspective of the impartial observer we will be bereft of any means by which we can criticise moral conventions and attitudes. This is an important objection but is, I believe, misplaced. It is of course crucial that whatever philosophical conception of moral agency we seek to establish that it is provided with the resources for genuine critical reflection on current beliefs and presuppositions. Indeed, it is the fundamental importance of this requirement that has provided the principle of impartiality with its dominant force. This is because impartiality purports to provide a thoroughly neutral perspective from which truly unbiased criticism can be conducted. However, it is not the only picture of critical reflection that we have to work with nor indeed is it the most plausible. As I began to outline in chapter 3, an alternative conception situates critical reflection in the (everyday) dialogical practices of individuals who enter into genuine open conversation with others in which the principles, values and goods that constitute some area of life are discussed. Iris Young puts it thus:

"... because there is no impartial point of view in which the subject stands detached and dispassionate to assess all perspectives, to arrive at an objective and complete understanding of an issue or experience, all perspectives and participants must contribute to its discussion. *Thus dialogic reason ought to imply reasons as*

contextualized, where answers are the outcome of a plurality of perspectives that cannot be reduced to a unity. In discussion speakers need not abandon their particular perspective nor bracket their motives and feelings. As long as dialogue allows all perspectives to speak freely, and be heard and taken into account, the expression of need, motive and feelings will not have merely private significance, and will not bias or distort the conclusions because they will interact with others needs, motives and feelings.

(IM Young "Impartiality and the Civic Public" in S Benhabib and D Cornell (eds), 1987, *Feminism as a critique: On the Politics of Gender*, Minneapolis, University of Minnesota Press)³³

The critical bite in this process depends upon the willingness of the participants to scrutinise not only the beliefs of others but also their own beliefs and presuppositions. This is a picture of critical thinking that goes back as far as Socrates and Plato and has many modern adherents such as Charles Taylor and Alasdair MacIntyre³⁴. On this conception moral change is secured through transitions in conceptions of the goods, principles, and values, where the transition to the new conception is generally considered to provide a "gain" over the previous conception. The dialogical structure of this process is typically narrative in form where the particular good, principle, or value at stake is described in ways which seek to demonstrate that it either coheres better with the fuller picture in which it is to be situated or shows that the fuller picture needs to be altered. Indeed, it is just this sort of dialogical process that is the mark of a thriving professional community, and characterises the development of the nursing profession which I discussed previously (see chapter 1).

(v) Abandoning the Principle of Impartiality

The evidence, then, both empirical and theoretical, strongly supports the view that we must understand the practical moral agency of the professional in ways very different from that suggested by The Moral Theory Approach which makes the principle of impartiality central. The professional must be seen as an agent embedded within a specific context in which moral decisions are made through a process of concretization in which the role they occupy is absorbed to a significant degree into the motivational structure of the narrative self. It is through this process that the professional comes to reason and respond to the client in ways

which enable her to see and extend her understanding of the ethical. *The professional should thus be encouraged to pursue ethical excellence through an on-going dialogue with other professionals (and concerned parties) where that dialogue ultimately concerns what sort of professional nurse (doctor, lawyer etc.) it is good to be*³⁵. This in turn suggests (as I argued in chapter 3), that the emphasis should not rest upon the application of abstract principles and rules contained within a code of conduct, but that codes of conduct should be seen as providing a bare framework from within which a much richer and fruitful discussion of the ethical can be constructed by committed professionals. The onus is thus on the professions and the institutions within which professionals practice to enable genuine dialogue to take place in order that each professional is provided with the opportunity to critically identify with the goods of the role they occupy and possess. The picture of professional moral agency I present supports the move away from reliance on the code of conduct as the sole or major tool for ethical reasoning, to an approach where professionals are actively encouraged to participate in dialogical activities such as committees, forums, group discussions, training, role-play etc. in order to develop their ethical dispositions and powers of moral reasoning.

(v.a) The Relevance of the Concept of Impartiality

It is important to note here that abandoning the principle of impartiality does not entail abandoning the idea that the concept of impartiality has relevance in professional moral decision making. I noted in chapter 1 (passim) that the trust clients have in professionals will depend in significant part on the belief that the professional dispenses her services without any intention to unfairly benefit herself, her profession, her organisation, or other clients. However, this notion of impartiality is crucially different from the principle of impartiality. This notion of impartiality can be satisfied by the fact that a professional distributes the goods of her professional role according to criteria merited by the intrinsic nature of the goods concerned. Thus, in examples 2-4 above it is clear that caring is distributed by the individual nurses in ways which respect the impartial concerns just mentioned (i.e. there is nothing in their approach to caring that suggests an unfair advantage

is being gained by any individual or group). However, this has nothing to do with adopting the abstract third-personal perspective demanded by the principle of impartiality. Indeed, on the contrary, the professional impartiality exhibited by such nurses can only be plausibly explained by the fact that they have come to be motivated by their identification with the goods (and reasons) of their professional role. *It is in their efforts to be a good nurse that impartiality is secured, not through the application of the principle of impartiality.* An examination of two more extracts taken from the interviews with nurses will clarify this point.

Example 7

Female, age 30, Health Visitor

[question] Have you ever had to care for someone you didn't like?

[Answer] Yes, many times.

[question] Can you give me an example ... try to think of a case where you really took a dislike to the person concerned, and tell me how you dealt with them.

[Answer] ... I can think of a time when I was working on an intensive care ward [prior to becoming a health visitor] and we had two people brought in who'd suffered severe burns. We couldn't do anything for the woman and she died within a short time, but the boyfriend wasn't so badly hurt. The Police told us that he had set fire to the woman by pouring petrol over her in her car and had got caught in the flames as well. Apparently he was known to be violent and this time went berserk. It was really difficult knowing that in one room we had a poor woman burnt to death and just down the corridor the person who did it. ... And we had to care for him like any other patient.

[question] How did you cope with that? It must have been very difficult.

[answer] Yes it was very difficult. Personally I'd like to have throttled the man, but as a nurse you've got to care for the patient no matter who they are or what they've done.

[question] How did that work out in practice? How did you deal with him on a day-to-day basis?

[answer] Well it wasn't easy and I never grew to like him. He turned out to be just like you'd expect ... he was always moaning, just a horrible pathetic man. ... However, when it comes down to it he deserved the same care as any other patient, you can't pick and choose your patients.

[question] But how did you psyche yourself up to deal with him, as it were, how did you get yourself into the right mental state to deal with him?

[answer] You just remind yourself that you're a nurse. You have to be professional. You can't allow personal feelings to cloud your judgement. I can't honestly say I was particularly nice to the patient but I do think I treated him fairly.

Example 8

Female, age 28, Forensic Nurse (secure psychiatric ward)

[question] How easy do you find it to care for people who you know have been violent, who have raped and murdered?

[answer] It was very difficult to start with. These are people I would normally despise just like everyone else. I have access to their records so I know exactly how bad some of the

things are they've done. But as a nurse you learn to see beyond your normal reactions and this gets you to provide the level of care that is needed to help these people overcome their problems. ... I would be no good as a nurse if I allowed my personal feelings to get in the way of my professional judgement.

[question] Do you ever feel any conflict between your personal feelings and your professional judgements?

[answer] ... One of the things I have to do is present progress reports that will be used in court to decide whether the patient has progressed enough to be allowed back into the community. As their advocate I have to present a report which is as fair as possible and presents them in their best light. But when you know what they've done in the past it can be really hard not to let your personal feelings influence what you say. Sometimes I find myself asking whether I would be happy to have such a person living near me, who would? However, my job is ignore these feelings and make an objective assessment as their nurse.

.....

In both of these extracts there is a clear commitment to impartiality displayed by the nurses in circumstances where purely personal considerations might easily influence professional decision making. However, what is equally clear is that *the commitment to impartiality they display stems from a conception of what constitutes a good nurse to be and not the application of the principle of impartiality*. As the nurse in example 7 put it: "You keep reminding yourself *you're a nurse*" and the nurse in example 8, "*... as a nurse you learn to see beyond your normal reactions*". Their understanding of impartiality is relative to the goods that they pursue as professional nurses, and it is this that determines their recognition that all patients qua patient must be cared for irrespective of any purely personal feelings³⁶.

(vi) The Non-Vocational Nurse

Finally, then, what do I say about professionals, as in example 5 above, who do not see their role in a vocational or identity-conferring way, who do not undergo role absorption, or the concretization of their relations to clients? It certainly does not follow that they are necessarily unethical, that is not my point. However, it is not possible that such individuals would constitute moral exemplars of the professional nurse. What is clear is that they restrict themselves to observing the bare ethical minimum as laid down in their code of conduct, and these ethical requirements will always strike them as externally enforced obligations. It is certainly a pertinent personal question for them whether they are in the right job (whether they have the character and commitment to pursue nursing excellence)³⁷. However, the research for this thesis suggests that these individuals are not representative of the typical professional nurse, that most to some significant degree undergo role absorption. It is precisely this fact that professional ethics should focus upon, seeking to encourage the pursuit of ethical excellence by active and committed individuals through enabling the sort of open dialogue mentioned above and in chapter 3.

¹ As W Kymlicka put it: "Every moral Theory must answer two questions: what are the demands that morality makes of us, and why should we feel obliged to obey those demands?" (in P Singer (ed), 1993, *A Companion to Ethics*, Oxford, Blackwell, p.186)

² I am of course here giving a reason for adopting the principle of impartiality from within morality itself. However, not all Moral Theorists start within morality, for example, Kant attempted to show that impartiality (universality) is a necessary requirement of rationality per se, thus, in any case of practical reasoning *I* have reason - because *I* am rational - to adopt maxims of action that reflect impartial standards and are universally applicable.

³ By referring to this concept of the self as the "narrative self" I do not wish, at the moment, to imply anything more than that each of us typically has a (largely pre-theoretical) conception of our own self-identity which is constituted in the way just mentioned; by one's desires, values, dispositions, concerns, and attachments to particular individuals, projects and causes etc. All of these elements focus upon what *matters* to the individual and form the main reference points or threads in an ongoing "story" that each of us plays out in living an intelligible or meaningful life (for a rich discussion of the notion of narrative, see: A MacIntyre 1985, *After Virtue*, London, Duckworth. And, C Taylor, 1989, *Sources of the Self*, Cambridge, Cambridge University Press.). The question remains, of course, whether this sort of self-conception in narrative terms stands up to philosophical reflection, that is, whether, or to what extent, a properly worked out theoretical conception of the self will incorporate or reject our pre-theoretical self-conception. About this question I have little to say here other than a complete rejection of this notion of self-identity, if it is plausible (which I seriously doubt), would transform beyond recognition our understanding of morality. Indeed, Charles Taylor, *ibid*, pp.3-24 argues that the narrative elements I have referred to represent "inescapable frameworks" for moral agency, Bernard Williams, argues that "... unless I am propelled forward by the conatus of desire, projects and interest, it is unclear why I should go on at all ...", B Williams, 1981, *Moral Luck*, Cambridge, Cambridge University Press, p.12.

⁴ The notion of an "encumbered" and "unencumbered" self I take from the work focusing on the liberalism/communitarian debate. In particular the communitarian responses to John Rawls's 1971, *A Theory of Justice*, Massachusetts, Harvard University Press, which accuse him of requiring for his theory a notion of the self which is implausibly detached (unencumbered) from the purposes and interests of the narrative self (see, for example Michael Walzer, 1983, *Spheres of Justice*, New York, Basic Books, see also, M Sandel "The Procedural Republic and the Unencumbered Self", *Political Theory*, 1984, vol.12,1)

⁵ Different Moral Theorists give different accounts of how an impartial observer conducts her reasoning. For example, Kant, 1785, *Groundwork for the Metaphysic of Morals*, (translated by HJ Paton, 1948, *The Moral Law*, London, Hutchinson), provides a picture of an autonomous agent carrying out her reasoning in isolation from others through applying the categorical imperative to proposed maxims of action. Discourse ethicists (for example: J Habermas, 1971, *Knowledge and Human Interests*, Boston, Beacon Press. J Habermas, 1990, *Moral Consciousness and Communicative Action* (translated by C Lendhart and S Weber Nicholson), Boston, MIT Press. S Benhabib, 1992, *Situating the Self*, Cambridge, Polity Press.) see the impartial observer as someone who conducts her reasoning in relation to others according to the principles which define a fair and open discussion. Other authors make use of the idea of a hypothetical agent who views the (moral) world as if from nowhere within it and is thus able to consider all options in an unbiased way, for example, T Nagel, 1986, *The View From Nowhere*, New York, Oxford University Press.

⁶ This reflects another important difference between The Moral Theory Approach and Contextualism. For the Moral Theorist the justification of particular moral acts is something that stands separate from their narrative description, for the contextualist description and justification are inextricably intertwined, indeed, amount to the same thing. The Moral Theorist will appeal to an impartially described principle to justify an act, the contextualist will describe the act in terms of certain moral concepts (kindness, honesty etc.) in an attempt to get others to recognise the description as justifying her behaviour. See, J Dancy, 1993, *Moral Reasons*, Oxford, Blackwell, ch.7.

⁷ What she has to do in effect, is ignore the fact that it is specifically *her* who loves Gemma and inquire from an impartial moral perspective whether it is permissible that *anyone* should be allowed to love Gemma (and all that doing that involves). This may of course lead to the conclusion that loving Gemma is morally permissible and she can get on with all the intensely personal engagement that this involves, but the crucial point to recognise is that the moral sanction for this is derived from an impersonal perspective (see, V Held, "Feminist Moral Inquiry and the Feminist Future", in V Held (ed), 1995, *Justice and Care: Essential Readings in Feminist Ethics*, Colorado, Westview Press). Failure to see this distinction is what lies behind Rawls's mistaken claim that impartiality does not imply impersonality (*op cit*. p.190). Rawls seeks to defend himself against the claim that impartiality implies impersonality by rejecting the utilitarian form of impartiality/impersonality which fails to recognise the distinctness of individuals, however, he does not escape

the Kantian version of impartiality/impersonality which while it recognises the formal distinctness of each individual does not allow their substantive distinctness to play any role in moral decision making (see ch.5 above. For support for Rawls's view see Louden R, 1992, *Morality and Moral Theory*, Oxford, Oxford University Press. esp. ch.1 and ch.2).

⁸ Stocker M, "The Schizophrenia of Modern Ethical Theories" *Journal of Philosophy*, LXXIII, 1976, PP.453-466. Stocker, argues that Moral Theory results in a sort of "moral schizophrenia" in alienating the individual from what motivates her (what I have described as splitting moral agency from the narrative self).

⁹ See TDJ Chappell, 1998, *Understanding Human Goods: A Theory of Ethics*, Edinburgh, Edinburgh University Press.

¹⁰ M Slote, 1983, *Goods and Virtues*, Oxford, Clarendon Press. The overridingness of the moral consists in the thought that no other considerations of any kind can override a moral prohibition (see p.81). See also Hare 1963, *Freedom and Reason*, Oxford, Oxford University Press, p.168.

¹¹ Susan Wolf "Moral Saints" in RB Kruschwitz and RC Roberts (ed), 1987, *The Virtues*, Belmont, Wadsworth)

¹² Indeed, Williams thinks that we should be "grateful" that we do not live in a world in which "morality" (construed narrowly) is universally respected (1981, p.23 and p.37-38).

¹³ The individuals not of the Moral Theory persuasion who I think also ought to be disturbed by this conclusion actually include all those critics of Moral Theory that I have just mentioned (Williams, Stocker, Wolf et al). I think that they make a mistake in accepting the distinction Moral Theorists make between the personal world of self-interest and the moral world of universal and impartial rules and principles. I shall suggest that we need not distinguish between two such realms at all, that we need not see moral ideals and personal ideals as being in conflict but rather see "... that a person's morality is revealed in the very enactment of her personal ideals." (P Chazan, 1998, *The Moral Self*, London, Routledge, p.4.). The key, of course, is not to construe morality in purely narrow terms but to broaden the terrain to that of ethics as Williams eventually does in "Ethics and the Limits of Philosophy" (Op cit). See also, L A Blum, 1994, Cambridge, Cambridge University Press, esp. ch2.

¹⁴ Scheffler S, 1982, *The Rejection of Consequentialism: A Philosophical Investigation of the Considerations Underlying Rival Moral Conceptions*, Oxford, Clarendon Press.

¹⁵ As Scheffler notes, the priority of the consequentialist view, however, means that while there will be occasions when it is defensible to pursue an interest from the personal perspective (via the independence thesis) I can never be required *not* to maximise the overall amount of good. For example, I might be permitted to serve the interests of my children before the interests of a greater number of others even where the latter increases the overall amount of good but I can never be morally *required* to put my children's interests first. The fact that one cannot be constrained by personal concerns in this way brings out a crucial difference between Moral Theorists like Scheffler and those opponents who see such personal attachments as sometimes requiring the adoption of non-universal and partial moral commitments. As in the case of Rawls (see note 6 above) the moral justification of the personal is provided by impersonal considerations.

¹⁶ Again it should be clear, as mentioned in the note above, that the ultimate justification for pursuing personal interests does not come from any intrinsic features of personal life but from the impartial and impersonal theory (consequentialism) that permits those interests to be pursued.

¹⁷ In the discussion of reasons that are neither strictly personal or strictly impartial my comments are indebted to the work of Lawrence Blum, 1994, *Moral Perception and Particularity*, Cambridge, Cambridge University Press.

¹⁸ I should perhaps note here that the sense in which this role definition is impersonal does not automatically entail full-blown impartiality in its universalist sense. Clearly at this stage we only need to see the obligations and duties that delineate the role as applying solely to the set of individuals who occupy or who will come to occupy, the role concerned (see Blum L, 1994, *Moral Perception and Particularity*, Cambridge, Cambridge University Press, p.103-4). Whether it does actually entail impartiality in the fullest sense will depend upon the nature of its relation to a universalistic and impartialistic Moral Theory, see T Nagel , 1979, *Mortal Questions*, Cambridge, Cambridge University Press ch.6.

¹⁹ It is true, of course, that at the beginning of his article Nagel recognises the wide variety of types of roles that actually exist, and that this complexity complicates the discussion. However, he goes on to suggest that there are general features that apply to all types of roles which enables him to make the universalist claims he wishes to support.

²⁰ The term "identity-conferring" I have borrowed from J Kekes, "Constancy and Purity", 1983, *Mind*, 92. And L McFall, "Integrity", in T Deigh (ed), 1992, *Ethics and Personality*, Chicago, University of Chicago Press. I do not claim that I will go on to use the term in exactly the same way as suggested by these authors.

²¹ I am not suggesting that there are not occasions when the motivational unity of the narrative self and professional role come apart. Indeed, as I shall discuss below (p.26) there are important moral dilemmas that arise precisely from such a disjunction. However, as I shall also discuss, it is only in terms of the typical importance of the unity of the narrative self and professional role in acting in professional life that we can understand the full force of the moral dilemmas caused when the two do in fact come apart and suggest conflicting courses of action.

²² See for example: JR Boyer and JL Lindemann "A Comment on Fry's 'The Role of Caring in a Theory of Nursing Ethics'", in H Bequaert Holmes and LM Purdy (eds), 1992, *Feminist Perspectives in Medical Ethics*, Indianapolis, Indiana University Press. LA Blum, 1994, *Moral Perception and Particularity*, Cambridge, Cambridge University Press. ST Fry, *The Ethic of Caring: Can it Survive in Nursing?*, 1988, *Nursing Outlook*, Vol.36, No.1. ST Fry, "The Role of Caring in a Theory of Nursing Ethics" in H Bequaert Holmes and LM Purdy (eds), 1992, *Feminist Perspectives in Medical Ethics*, Indianapolis, Indiana University Press. S Gadow, "Nurse and Patient: The Caring Relationship", in AH Bishop and JR Scudder (eds), 1985, *Caring, Curing, Coping: Nurse, Physician, Patient Relationships*, Birmingham Alabama, University of Alabama Press. C Gilligan, 1982, *In a Different Voice*, Cambridge, Harvard University Press. AP Griffin, "A Philosophical Analysis of Caring in Nursing", 1983, *Journal of Advanced Nursing*, Vol.8, pp.289-95. V Held (ed), 1995, *Justice and Care: Essential Readings in Feminist Ethics*, Colorado, Westview Press. E Kittay and D Meyers (eds), 1987, *Women and Moral Theory*, Totowa, Roman and Littlefield. MJ Larrabee, (ed) 1993, *An Ethic of Care: Feminist and Interdisciplinary Perspectives*, New York, Routledge. N Noddings, 1984, *Caring: A Feminine Approach to Ethics and Moral Education*. Berkeley, University of California Press. JS Packard and M Ferrara, "In Search of the Moral Foundation of Nursing", 1988, *Advances in Nursing Science*, Vol.10, No.4, pp.60-71. J Watson, 1985, *Nursing: Human Science and Human Care*, Connecticut, Appleton Century Crofts.

²³ See also, for example, V Held, 1995, *op cit*, pp.153-176.

²⁴ Quoted in P Benner, "The role of articulation in understanding practice and experience as sources of knowledge in clinical nursing" in J Tully (ed), 1994, *Philosophy in an Age of Pluralism: The philosophy of Charles Taylor in question*, Cambridge, Cambridge University Press, p.142.

²⁵ P Benner, "The role of articulation in understanding practice and experience as sources of knowledge in clinical nursing" in J Tully (ed), 1994, *Philosophy in an Age of Pluralism: The philosophy of Charles Taylor in question*, Cambridge, Cambridge University Press. Benner identifies here the naturalistic philosophical motivation for this sort of impartialist treatment of moral notions like caring.

²⁶ See, for example, P Benner, 1984, *From Novice to Expert: excellence and power in clinical working practice*, Reading Massachusettes., Addison-Wesley. Also, P Benner, 1994, *op cit*. And P Benner, *From Novice to Expert: a phenomenological study of clinical nursing expertise in intensive care units* (forthcoming) (referred to in Benner P, 1994).

²⁷ LA Blum, 1994, *op cit*, p.200.

²⁸ It is interesting to note here that the nurse described the ward as "her" ward. It proved typical throughout the empirical survey that nurses who perceive their role as identity-conferring use expressions such as "my hospital", "my unit", "my patients" etc. This is clearly indicative of the extent to which the nurse concerned has absorbed her role into the motivational set of the narrative self.

²⁹ An interesting comment made by this interviewee later when I asked him why he rather than a doctor provided the "bad news" to patients, was that in consultations with the doctors of the patients concerned they would often ask him to deliver the news as he "knew" the patient better. This suggests that the particularity of the nurse-patient relationship is quite explicitly recognized to be of value in caring.

³⁰ ST Fry "The Role of Caring in Nursing Ethics", in HBequaert Holmes and LM Purdy (eds) *Feminist Perspectives in Medical Ethics*, Indianapolis, Indiana University Press, p.96. Fry is referring here to S Gadow, "Nurse and Patient: The Caring Relationship" in, AH Bishop and JR Scudder (eds), 1985, *Caring, Curing, Coping: Nurse, Physician, Patient Relationships*, Birmingham Alabama, University of Alabama Press.

³¹ This is recognised explicitly in the nursing profession which makes provision for individuals to opt out of participating in certain procedures on grounds of conscience. Thus, for example, a woman who identifies herself as a christian and a nurse (among other things) may opt out of taking part in abortions on the grounds that it conflicts with her strongly held christian beliefs.

³² It is much to Kant's credit, and an example of his integrity, that he recognised that a universalistic or impartialistic Moral Theory must rule out the possibility of moral dilemmas (see his "On a Supposed Right to Lie from Altruistic Motives" repr. in P Singer, 1994, *Ethics*, Oxford, Oxford University Press).

³³ IM Young "Impartiality and the Civic Public" in S Benhabib and D Cornell (eds), 1987, *Feminism as a critique: On the Politics of Gender*, Minneapolis, University of Minnesota Press. Quoted in V Held (ed), 1995, *op cit*, p.163. All italics are mine.

³⁴ See for example, A MacIntyre, 1981, *After Virtue*, London, Duckworth. and, 1988, *Whose Justice? Which Rationality?*, London, Duckworth. C Taylor, 1989, *Sources of the Self*, Cambridge, Cambridge University Press. and, 1991, *The Ethics of Authenticity*, Massachusettes, Harvard University Press.

³⁵ It should be clear by now, I hope, how the notions of: vocational or identity-conferring roles, role absorption, and concretization together provide a contextualist solution to the Basic Question, in that all these concepts contain first-personal and third-personal aspects that are inseparable. Thus they provide first-personal motivation and third-personal transcendence of the merely personal.

³⁶ Indeed, to allow purely personal feelings to influence judgement would be to fail to treat the individual as a patient and thereby fail to act as a nurse. A purely private relationship would have been wrongly introduced into the non-private setting of the professional health care environment.

³⁷ It is revealing that the nurse interviewed in example 5 did eventually leave the nursing profession and in a subsequent conversation actually cited the discussion we had had as confirming that she "wasn't the right sort of person to be a nurse".

CONCLUSION

(i) Summary of the Arguments

In chapter 1 (Professional Ethics), I attempted to identify what might be distinctive about professional ethics in order to focus upon what I argue to be central issues in the chapters that follow. I began in part I, with an attempt to blunt the claims of sceptical sociologists who argue that there is nothing at all distinctive about professions compared to other occupations save for the fact that professions have managed to monopolise power in certain areas of human life. This, I suggested, is particularly important because sceptical sociologists typically argue that the heightened concern with ethics that professions proclaim is nothing more than an instrumental device used to secure a position of monopoly and power. Accordingly, I sought to show that there is at least a *prima facie* plausibility in distinguishing between occupations in terms of the concept of a profession by embedding a traditional "traits" style definition of the concept within the more dynamic processes of "professionalisation". I showed how recent developments within nursing are clearly best described in terms of a sustained self-conscious process of professionalisation. I concluded, then, that the concept of a profession (and professionalisation) has palpable explanatory power. This immediately suggests, I argued, that the real source of the sceptic's anxieties concerns ethics in a fundamental way. Whether or not an occupation's pursuit of professional autonomy is to be described as, either: purely the self-interested pursuit of power, or, as recognition of a unique competence to provide vital services, will depend significantly upon the ethical basis of their claims. I suggested, then, that in an important way, the very validity of the concept of a profession rests significantly upon what sense we can make of the idea that professions have a distinctive concern with ethics. To recognise this, however, just is to recognise that there is no quick route to scepticism, and thus I hope to

have blunted, or at least delayed, scepticism about the professions pending the results of the investigation presented in this thesis.

In part II, I attempted to delineate the general shape of the debate within which the arguments of the following chapters are situated. I argued in support of Bernard Williams' view that what gives content to the idea that professions have a distinctive concern with ethics is the claim that professional ethics *diverges* in some important sense from everyday or general morality. Accordingly, I claimed that it is in accounting for this divergence from general morality that the nature and validity of professional ethics is to be established. I identified two possibilities: first what I called the "*Deductive Paradigm*", and second, what I called the "*Contextualist Conception*". The Deductive Paradigm, I argued, claims that professional ethics is contained within general morality as an application of itself to the special circumstances of professional life. In short: general morality provides independent universal (and impartial) principles and rules which form the major premises in arguments which when conjoined with minor premises drawn from the special circumstances of professional life enable the professional to "*deduce*" moral conclusions. The Contextualist Conception, I argued, denies any sort of deductive relationship between professional ethics and general morality. It claims that while there must be *coherence* between general morality and professional ethics, professional ethics cannot in any sense be seen as an application of general morality. Rather, it represents a distinctive set of ethical concerns generated *directly* from within professional life that co-exist with everyday moral considerations. I argued that the Contextualist Conception represents a more radical account of the divergence of professional ethics from general ethics than is provided by the Deductive Paradigm, and concluded chapter 1 by showing how these different accounts manifest themselves in actual professional life. I noted that the Deductive Paradigm inevitably places moral *obligations* centre stage. I argued that the universal principles and rules of general

morality can only be stated as obligations (in order that they are indeed universal), thus in deducing professional morality from general morality the distinctiveness of professional ethics inevitably consists in adopting a specific set of obligations only applicable to the professionals concerned. I argued that the Contextualist Conception in eschewing any deductive connection to general morality has to draw more directly upon the specific features of professional life. The result of this, I claimed, is to focus professional ethics fundamentally upon questions concerning the *goods* realised in professional practice. I encapsulated this difference between the two positions by arguing that an adherent to the Deductive Paradigm sees the basic concern with professional ethics as raising and answering the question about what it is *right to do* in some situation, where this is given content by determining what a professionals *obligations* are in that circumstance. The adherent to the Contextualist Conception on the other hand, I claimed, focuses fundamentally upon the question of what it is *good to be*, where this is given content by articulating what constitutes a good professional of the kind concerned.

In chapter 2 (Ethical Theory: Moral Theory and Contextualism), part I, I attempted to provide a deeper understanding of the differences between the Deductive Paradigm and the Contextualist Conception by making explicit the fundamental philosophical presuppositions about ethics and ethical theory that underlie the two approaches. I argued that *it is impossible to get a clear understanding of professional ethics unless one brings these central philosophical issues to the fore*. I claimed that this is because it is the acceptance or rejection of these different presuppositions (explicitly or implicitly) that drives an individual into one camp or the other. Accordingly, I identified two styles of ethical theory; one corresponding to the Deductive Paradigm which I now labelled "The Moral Theory Approach", and the other corresponding to the Contextualist Conception which I now labelled "Contextualism". I claimed that both styles of ethical theory

involve the philosophical (meta-ethical) analysis of everyday moral intuitions, experiences behaviour etc. but that it is *what this analysis implies about how we ought to conduct our practical moral reasoning that crucial differences emerge*. I claimed that according to The Moral Theory Approach this analysis demands that we develop a Moral Theory which I described as a sub-theory of ethical theory which provides, "a set of universal principles and general axioms which justify or entail a systematic set of rules or duties from which particular moral judgements are to be deduced" (p.51). Contextualism, I claimed, argues that philosophical analysis demonstrates no such requirement and in fact suggests that the development of a Moral Theory is impossible. Instead it replaces Moral Theory with an account of what constitutes a good or worthwhile life to lead with the result that moral reasoning is always correlative to a perception of the goods at stake, requiring situated practical wisdom. I then gave examples of each approach (Henry Sidgwick and Aristotle.).

At this point I noted that any successful comparison of the merits of these two approaches requires the identification of some fundamental common ground which they both recognise as demanding explanation and successful incorporation into the ethical theory being offered. In this respect I identified two fundamental features of the "*moral point-of-view*" which any ethical theory must account for. First I supported Roger Scruton's claim that, "Morality must be understood in first-person terms: in terms of the reasoning that *leads* to action", this recognises that moral reasoning must in some way *motivate* an individual to act. Secondly, I argued that reasoning from the moral point-of-view must also be guided by, or incorporate, concerns that in some important sense lie outside of one's own particular personal concerns and desires (that is, moral reasoning must incorporate a response to what lies external to the agent). As such, the moral point-of-view, I claimed, inextricably combines first-person and third-person aspects (which is what makes moral reasoning so hard). This, I argued, immediately yields what I

called the "*Basic Question for Applied Ethical Theory*", namely "*How can a stretch of practical reasoning incorporate the fact that it needs to reflect reasoning that is specifically mine (and motivate me as such) yet at the same time reflect standards that transcend my own specific concerns?*" I suggested that this provides a perfectly adequate question against which to test the rival claims of The Moral Theory Approach and Contextualism.

In part II, I explained the strategy I have used throughout the remaining thesis in comparing the rival approaches to professional ethics. Following Alasdair MacIntyre (et al) I described The Moral Theory Approach as the "dominant conception" in applied (professional) ethics, but claimed that for both theoretical reasons and empirical reasons generated from the survey of nursing opinion this approach represents, "... a radically distorted description of our actual ethical practices and an implausible account of how ethical practice might be perfected or improved." (pp.64-5). In short, I claimed that it cannot answer the Basic Question for Applied Ethical Theory. Thus, I identified my strategy as involving a sustained attack upon the fundamental principles and presuppositions of The Moral Theory Approach, in the course of which my own positive account in favour of a Contextualist alternative emerge. The rest of the chapter was spent identifying two fundamental principles and two fundamental presuppositions that I claimed are central to any form of The Moral Theory Approach. These I identified as: the "Principle of Universalizability", The "Principle of Impartiality", a commitment to a rationalistic procedure in moral argument, and the prioritisation of conceptions of what it is right to do over conceptions of what it is good to be.

In chapter 3 (Universalizability: Principles, Rules and Codes of Conduct), I presented my case for the rejection of the principle of universalizability. I began in part I, by describing three different versions of the principle (Kant's, Hare's and

discourse ethics) in order, primarily, to demonstrate that it is indeed a fundamental principle adopted by any version of The Moral Theory Approach. In describing these accounts I further demonstrated why the principle of universalizability entails a rationalistic procedure in moral argument. In part II, the arguments against the principle were presented by focusing upon the nature and function of professional codes of conduct. First, I established the link between the principle of universalizability and codes of conduct. This I explained in terms of the notion of *codifiability*. I argued that the principle of universalizability rests crucially upon the possibility of codifying principles and rules in such a way that *the propositional content of the principle or rule alone can determine its application*. I argued that this is required because the principle or rule (in virtue of its universality) is supposed to be able to guide the behaviour of *anyone* irrespective of her personal interests or situation. The whole point of universal principles is that they are supposed to be able to be taken around any number of contexts and guide the conduct of the various individuals therein, thus they must be specifiable separately from any particular context (it is in this sense that they provide premises for application in a deductive/rationalistic form of reasoning and argument). I claimed that a Moral Theory reading of professional codes of conduct represents an ideal example of an attempt to codify ethical principles and rules in just this way, albeit that the scope of its universality is restricted to the domain of the relevant professionals it covers. In this restricted case the principles and rules identified are supposed to guide the conduct of *any* professional irrespective of her personal interests or (professional) situation. Thus, I claimed, if it can be shown that it is impossible to codify the principles and rules of a code of conduct in the way Moral Theorists must, then a devastating blow will have been struck against the principle of universalizability and the Moral Theory Approach in general (because universalizability depends upon codifiability). I labelled this the "Problem of Codifiability". However, before I went on to show this I noted another connection between codes of conduct and the principle of

universalizability, which links them together in a relationship of *justification*. Using examples (pp.93-96) I showed that Moral Theorists argue that the specific ethical principles and rules contained within a professional code of conduct *can only be justified if they are shown to be an application of universal principles and rules*. I labelled this the "Problem of Justification". I noted that the two problems are inextricably linked as universal principles and rules can only justify the specific principles and rules of a code of conduct if codifiability is possible. Thus, I turned quickly to the problem of codifiability.

I rejected the possibility of codifying principles and rules (in the way demanded by the principle of universalizability) on the Wittgensteinian grounds that *no rule exists apart from its applications*. I claimed that it follows from this that there can be no *understanding* of a rule separately from its applications, which in turn means that there can be no specification of a rule (or principle) such that its propositional content alone can fix its application. And this, of course, just is to reject the very possibility of codifiability. The argument I put forward in this respect concerned Wittgenstein's account in the "**Philosophical Investigations** (1953)" of what is involved in *following a rule*, and I showed how Wittgenstein knocks-down any sort of account of rule following upon which the Moral Theorist must depend. I argued that Wittgenstein showed that the ability to follow a rule is a *practical* ability which depends upon nothing more nor less than the fact that agents share in certain forms of life. I argued that an agent's grasp of a rule is demonstrated in her ability in certain social contexts to "go on" in appropriate ways, thus manifesting her understanding of a rule in appropriate stretches of behaviour. This, however, demonstrates that there is no understanding of a rule separately from its application. Accordingly I argued that the principle of universalizability cannot provide the sort of ethical principles and rules to guide moral reasoning that Moral Theorists require.

To strengthen my case for the rejection of the principle of universalizability I then provided an account of a contextualist form of moral reasoning, which I claimed provides a much more plausible picture of what is involved. This, I claimed, necessitates repudiation of the rationalistic myth that moral reasoning must proceed in the form of a deductive style of *argument* from provable (universal) first principles to particular conclusions. Indeed, I claimed that moral reasoning is not primarily concerned with "argument" in this sense at all, but is essentially an activity in which the agent seeks to make *sense* of what one does or proposes to do. Thus, in moral reasoning I typically attempt to get you to see the *point* (sense) of why I think that a particular rule demands x in the circumstances rather than y. I claimed further that the activity of making sense of a rule's application is inherently *descriptive* and *narrative* in nature and consists in: (a) identifying the *salient features* of a situation in virtue of which a rule is *prima facie* invoked, and (b) description of the various salient features of a situation such that together they take on a certain *moral shape* (expressed in narrative form). I then argued that critical evaluation of rules focuses centrally upon two considerations: (a) whether an individual's application of a rule coheres with the narrative within which it is embedded, and (b) whether the particular rule following demanded by a narrative shows the narrative to be suspect.

These conclusions, I claimed, lead to a picture of rules in which they should be understood as *partial specifications of the goods* within a practice (narrative). I supported Alasdair MacIntyre's claim that when we reflect upon a rule's application such that we seek, for example, to extend a rule to cover new cases, or reformulate a rule to exclude certain behaviour, reject a rule outright, develop a new rule etc. it must be because "...the members of [a] particular community could agree in seeing some substantial *good* at stake in responding one way rather than another." ("**Does Applied Ethics Rest on a Mistake?**", 1984, p.506). Thus, I argued that the rule concerning truth-telling in the professional health care setting

is only properly understood as a partial specification of the good of realising patient autonomy. I noted further that this means that in *justifying* why one follows a rule in one way rather than another, no appeal is (or can be) made to abstract and neutral universal principles and rules. Rather, I argued that, according to contextualism, description and justification are not separate activities (as they are on The Moral Theory Approach) but amount to the same activity. In describing an act as following a specific rule an agent at the same time articulates her conception of the good expressed by the rule, thereby justifying her action(s) in the same dialogical activity.

I then sought to compare the two different approaches to moral reasoning by examining how each understands the nature and functioning of codes of conduct in the process of moral decision making. It is at this point that I explicitly introduced evidence accumulated in the empirical survey of nursing opinion. I selected extracts from a number of interviews to show that The Moral Theory Approach to codes of conduct not only fails to account for the way professionals actually engage in ethical reasoning, but also renders codes an actual hindrance to moral reasoning. I claimed that the results of the empirical survey showed that while nurses unanimously recognise the importance of ethics typically they see the code of conduct produced by the UKCC as no real help in moral decision making (and more often than not a document that yields contradictory and confusing principles and rules). I argued that this is the result of them implicitly adopting The Moral Theory Approach to the code of conduct. This, I argued, could be seen in their expectation that the code of conduct should provide principles and rules for direct (deductive) application to particular situations in order to determine answers to any moral problems that might arise. I argued that this just is to make the assumption that principles and rules can be codified in the way Moral Theorists suggest. This, I claimed, leads not only to frustration among nurses concerning the usefulness of their code, because it cannot fulfil this function for

reasons already discussed, but also to the highly damaging perception that the sceptical sociologists I mentioned earlier are correct in thinking that the proclaimed concern with ethics professed by the professions serves no other purpose than to protect professional autonomy from general moral scrutiny (p.115).

The solution, I suggested, lies not in abandoning codes of conduct but rather in abandoning the interpretation of codes according to The Moral Theory Approach. I argued that a contextualist interpretation of codes of conduct, which treats them as providing common narrative frameworks from within which professionals articulate their ethical concerns, represents the proper useful role of a code in moral reasoning. I then produced an example of a nurse who successfully used the UKCC code of conduct in precisely this fashion. I concluded the chapter by arguing that the extent to which a code of conduct justifies the activities of a particular group of professionals will depend upon the extent to which the profession concerned creates genuine dialogical opportunities for its professionals to use its code in the narrative ways I identified.

In chapter 4 (Impartiality: The Self, and Professional Roles), I attempted to undermine the principle of impartiality by showing that the Moral Theorist's bipartite division of reasons into those that are personal/partial (non-moral) and those that are impersonal/impartial (moral) is seriously flawed. I began my argument by noting that the Moral Theorist's division of reasons into impartial and partial kinds leads inevitably to a distinction between two kinds of individual agency, namely, moral agency and personal agency (I labelled the latter the agency of the "narrative self"). I noted that this raises an enormous difficulty in explaining how these quite distinct perspectives are to be united in the life of one particular individual (the "Basic Question for Applied Ethical Theory"). However, rather than criticise various theoretical attempts at achieving this I

argued that a more fundamental criticism of The Moral Theory Approach could be offered by undermining the distinction in the first place. Supporting Lawrence Blum's arguments presented in "**Moral Perception and Particularity**" (1994), I claimed that this dichotomy fails to recognise that in at least some contexts moral agency and personal agency unite inextricably such that there are moral reasons for action that are not strictly impersonal, nor strictly personal. The context I identified in order to show this was the action of an individual in a professional role.

I argued that individuals can occupy professional roles in two quite different ways: "*instrumentally*" or "*vocationally*". I claimed that in occupying a role instrumentally the occupant lacks any personal identity with the role and sees herself primarily as instrument in realising the explicitly stated obligations and duties that attach to it. Her motivation to act to realise those duties and obligations is secured by the contractual agreement that she has with her employers to acquire money in exchange for her labour (in short, her continued interest in the role is maintained solely by the prospect of realising a good "external" to the intrinsic nature of her tasks, i.e. money). By contrast, I claimed, in occupying a role vocationally the occupant does, in some important sense, identify personally with the role (thus I described these as "*Identity-conferring*" roles). She sees herself not merely as an instrument in realising the duties and obligations of the role but also personally *realises herself* in performing its specified tasks. Her motivation to act to realise those duties and obligations is *not* secured simply by the prospect of making money but to a significant degree by the fact that those duties and obligations speak to her directly as things she values intrinsically because she identifies with the role concerned (i.e. she is (also) motivated by the "internal" goods of the role). I described this sort of identification with a role as "role absorption into the motivational set of the narrative self". I claimed that it is acting in a role in this latter "identity-

conferring" sense that provides an agent with moral reasons to act that are neither strictly impersonal nor strictly personal.

In demonstrating this claim I focused on the concept of caring in a nursing role. I argued that there are two possible conceptions of caring as a nurse: the "task oriented model" and the "patient oriented model". The task oriented model of caring claims that nursing care can be defined in terms of a set of discrete impersonally described behavioural tasks. This, I claimed, pictures the care relationship, as holding between the patient/client who is the bearer of impersonally describable symptoms and the nurse who provides impersonally describable treatments. There is no requirement on this model for the notion of role identification/role absorption, thus nursing care can be provided purely in terms of an instrumental approach to a role. I argued that the patient oriented model, by contrast, identifies the particular relationship between the particular nurse and particular patient as central to the idea of nursing care. On this conception there is always a departure from generally describable features to the concrete relationship in which the nurse responds to the patient as a unique and whole individual (what Lawrence Blum describes as "care particularity", *op cit.* pp.108-111). I argued that this notion of caring cannot be described in impersonal terms. Using further extracts from the interviews conducted with nurses I attempted to show that typically nurses care according to the patient oriented model of caring. Most importantly I showed that caring in this way could not be described as impersonal because it always involves some significant degree of role-absorption, that is, the nurse cares in the way she does because of the nurse that she actually sees and feels herself as being. The disposition to care in these cases, I claim, is clearly a part of the motivational set of the narrative self, and thus is not purely impersonal. However, I argued that this sort of caring in the nursing role is not strictly personal either. I argued that the disposition to care in these cases is constituted differently from carings the individual might engage in

more personal contexts. Thus, I claimed, caring as a nurse also involves response to standards that arise independently of a person's pre-reflective desires. I concluded, then, that there are, moral reasons that are neither purely partial nor purely impartial. Further, I claimed that it is precisely in the use of these sort of reasons that (professional) moral agency is expressed.

I argued that the advantage of locating ethical reasoning in these sort of reasons, and in this sort of picture of moral agency, becomes immediately apparent when one appreciates how it offers an answer to the Basic Question for Applied Ethical Theory. It becomes easy to see how reasoning that results from role absorption can both motivate the agent to act, and at the same time reflect standards that transcend the agent's specifically personally concerns. Thus, I argued, there is no need to adopt the deeply implausible and profoundly problematic picture of moral agency demanded by The Moral Theory Approach's adherence to the principle of impartiality. I then concluded the chapter by answering possible objections that might be raised by the contextualist picture of moral reasoning (agency) I have supported.

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(ii) A Final Reflection

In reflecting upon the thesis I have presented here the thing that strikes me as most interesting is how much of it is taken up with the discussion of "deep" theoretical issues. This seems prima facie paradoxical given that the motivation for the research stemmed in large part from a concern that the actual ethical experiences of professionals has largely been ignored by philosophers in their theoretical musings on applied (professional) ethics. Thus, one might have expected the thesis to contain much more in the way of empirical material. However, if the thesis has at all been successful it should be apparent that theoretical concerns

have dominated precisely because of the results of the empirical survey I conducted. As the survey progressed it became clear that the central problem the thesis needed to address concerned the relationship between theory and practice. This problem was given a particular direction, however, by the fact that the results of the empirical survey showed that the dominant Moral Theory Approach to applied (professional) ethics quite dramatically failed to cohere with, or account for, the ethical experiences and practices of professionals. This meant that the level at which I pitched the theoretical analysis of, both, the empirical evidence and the academic literature needed to penetrate deeper than the standard disputes to be had between various kinds of utilitarians and Kantians. It required uncovering deeper assumptions that all these Moral Theorists shared. Thus it became crucial to investigate the theoretical presuppositions underlying The Moral Theory Approach to see whether the apparent yawning gap between theory and practice could be accounted for in terms of a failure in that approach, or whether professional practice needs to be radically reorganised to fit with its requirements. Either way, an answer could only be approached by tackling deep theoretical issues. It was precisely in this sense that I described the thesis as an attempt to provide a "meta-ethical foundation for professional ethics" (p.50). I hope that the arguments presented throughout have demonstrated that without this form of meta-ethical analysis little of philosophical use can be said about the empirical evidence regarding the way professional's reason about ethical issues (actually or ideally).

The support I have offered for a contextualist approach to ethical reasoning in professional contexts has in the main, then, been offered by way of a thoroughgoing criticism of the essential presuppositions of The Moral Theory Approach. In demonstrating the irresolvable flaws lying at the heart of The Moral Theory Approach I have at the same time attempted to show how a contextualist alternative fares much better in explaining and guiding ethical conduct (for

example, in the interpretation of the role of a code of conduct). However, I have attempted nothing more than to show the initial plausibility of the contextualist position and an account a good deal fuller than I have provided here would be needed to confirm its superiority. The reason I have not produced this fuller account should be obvious. The limitations upon length imposed on a PhD thesis requires careful selection of the issues to be addressed, and it remains my firm contention at the end of this thesis that professional ethics cannot be properly understood by academics or properly recognised by professionals until the deeply entrenched biases of The Moral Theory Approach are exposed in the way I have attempted here. Thus, I hope to have at least demonstrated the simple but profound truth in Bernard Williams' claim that: "Theory and prejudice are not the only possibilities for an intelligent agent, or for philosophy." (*Ethics and the Limits of Philosophy*, 1985, p.1120).

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APPENDICES

APPENDIX I(a) Questionnaire

APPENDIX I(b) Supplementary questions added to the first questionnaire

APPENDIX I(c) Two examples of written reports

APPENDIX I(a)

NURSING ETHICS QUESTIONNAIRE

[All information provided will be treated as confidential]

INSTRUCTIONS: please tick one or more of the boxes unless the question states otherwise. Feel free to add comments where you feel they are appropriate. Assume the patient/client referred to in the questions is a normal adult.

POSITION (including ward).....

LENGTH OF NURSING EXPERIENCE.....

HOSPITAL.....

-
1. Which of the following describes best what you think is the nurses role in patient/client care?
- (A) As someone who should make decisions on behalf of the patient, choosing what is in their best interest. ☐
- (B) As a health technician providing scientific objective care in a non-personal manner wherever this is requested. ☐
- (C) As an advocate for the patient, promoting and safeguarding the interests and well being of the individual. ☐
- (D) Other (please specify)
2. How much influence do you think a nurse should have in the choice of medical treatment for the patient.
- (A) A large influence ☐
- (B) A significant but not large influence ☐
- (C) A small influence ☐
- (D) No influence ☐
- (E) Other (please specify)

3. How much influence do you think a nurse should have in the choice of care provided on the ward for the patient?

- (A) A large influence. []
- (B) A significant but not large influence. []
- (C) A small influence. []
- (D) No influence. []
- (E) Other (please specify). []

4. Do you think that it is ever acceptable to override the wishes of the patient?

- (A) Never. []
- (B) Only in very special circumstances. []
- (C) Only if to do so would be beneficial to their health. []
- (D) Whenever it is convenient to do so. []
- (E) Other (please specify).

5. Do you think a nurse should attempt to develop personal contact with their patients (eg. befriend them)?

- (A) Yes. []
- (B) No. []
- (C) Other (please specify).

6. Do you think it is ever acceptable to fail to tell the truth to a patient?

- (A) Never. []
- (B) Only if to do so would benefit their health. []
- (C) To protect the confidence of another (eg. spouse or partner). []
- (D) Whenever it is convenient. []
- (E) Other (please specify).

7. Do you think a nurse should always obey the orders of a doctor?

- (A) Yes. []
- (B) Not if the order would involve a breach of the law. []
- (C) Not if the order would involve a breach of contract or code of conduct. []
- (D) Not if the nurse believes the order to be against the best interests of the patient. []
- (E) Not if it is against the wishes of the patient. []
- (F) Not if the nurse does not want to. []
- (G) Other (please specify).

8. Do you think a nurse should cover up a colleague's error?

- (A) Never. []
- (B) Not if the mistake is serious. []
- (C) Yes if the mistake is not very serious. []
- (D) Always. []
- (E) Other (please specify).

9. Do you think it is acceptable for a nurse to expose to the general public information about malpractice at their hospital?

(A) Never. []

(B) Not if the malpractice is not very serious. []

(C) Yes if the malpractice is serious. []

(D) Yes if the nurse has exhausted all internal methods of rectifying the problem without success. []

(E) Always. []

(F) Other (please specify)

10. Rate the following duties in order of importance by putting the number 1 against what you consider to be the most important duty, 2 and 3 against the next and 4 against the least important.

(A) The nurse's duty to his/her colleagues. []

(B) The nurse's duty to the hospital. []

(C) The nurse's duty to society. []

(D) The nurse's duty to the patient. []

11. Do you think that ethics is an important part of your working experience?

(A) Very important. []

(B) Important. []

(C) Not very important. []

(D) Unimportant. []

(E) Other (please specify)

12. Have you read the UKCC Code of Conduct?
- (A) Yes. []
- (B) No. []
- (C) Other (please specify)
13. Would you say that the UKCC Code of Conduct has helped you make decisions at work?
- (A) Yes. []
- (B) No. []
- (C) Other (please specify).
14. Faced with an ethical problem at work how would you usually try to solve it?
- (A) Refer to the UKCC Code of Conduct. []
- (B) Trust to your own judgement. []
- (C) Consult colleagues. []
- (D) Ask a senior member of staff for a decision. []
- (E) Refer the matter to an ethics committee. []
- (F) Other (please specify).
15. Which of the following do you think would be the best means of resolving ethical issues. Put the number 1 against what you consider to be the best option, 2 against the next best and so on.
- (A) Reference to the UKCC Code of Conduct. []
- (B) Trusting your own judgement. []
- (C) Consultation with colleagues. []
- (D) Seek a decision from senior staff. []

- (E) Seek a decision from an ethics committee. ☐
- (F) Other (please specify). ☐

16. Have you received any form of training in ethics?

(A) Yes (please specify). ☐

(B) No (go to question 18) ☐

17. Do you think the training you received was helpful?

(A) Yes. (go to question 19) ☐

(B) No. (go to question 19) ☐

(C) Other (please specify) (go to question 19)

18. Do you think some form of training would be useful?

(A) Yes. ☐

(B) No. ☐

(C) Other (please specify)

19. Is there an ethics committee at your hospital which deals with nursing issues?

(A) Yes. ☐

(B) No. ☐

(C) Other (please specify).

20. Do you think there is adequate provision at your hospital to raise and discuss ethical issues?

(A) Yes ☐

(B) NO. ☐

(C) Other (Please specify)

Please place the questionnaire in the envelope provided and either return it directly to me at the address below or give it to the nurse responsible for distributing it.

May I thank you most sincerely for taking the trouble to fill in the questionnaire, your help is a very important part of my research into nursing ethics.

If you feel that you would like to participate further in my research I would very much appreciate your help in two particular ways. I would be grateful for any written accounts of particular ethical dilemmas that you have personally encountered as a nurse. I shall also be conducting informal interviews with nurses so that I can discuss with them the sort of ethical issues that confront them. If you could help in either or both of these ways, either fill in your details below or write to me at the following address;

ROBERT BARON
UNIVERSITY OF WOLVERHAMPTON
CASTLE VIEW
DUDLEY
DY1 3HR

YOUR DETAILS

NAME.....
ADDRESS.....
.....
.....
.....

I would be able to help with

1. A written account of an ethical dilemma I have faced ☐
2. An informal interview ☐

(All information provided will be dealt with in strict confidence)

APPENDIX I(b)

Supplementary questions added to the questionnaire for the second survey of opinion among nurses, midwives and health visitors

21. If you presently work as a nurse in the private sector, or have ever worked as a nurse in the private sector, has this changed your conception of what is required of you as a registered nurse?

(A) Yes

(B) No

(C) Other (please specify)

22. Would you say that you personally identify yourself to a significant extent with your professional role?

(A) Yes

(B) No

(C) Other (please specify)

APPENDIX I(c)

WRITTEN REPORTS

The following two examples of written reports sent in by nursing professionals have had all names and addresses removed to preserve the anonymity of the sender.

8th January 1993

Mr Robert Baron
University of Wolverhampton
School of Humanities and Social Sciences
Dudley Campus
Castle View
Dudley
DY1 3HR

Dear Mr Baron

I was interested to read, in the Nursing Standard, of your research project and thought perhaps a problem experienced in one of our nursing homes might be of interest to you.

Matron of a 60 bedded unit contacted me for advice when her 1st level registered nurses threatened to stop administering drugs to a particular patient. The facts of the case are as follows.

- 1) The patient in question was a retired nursing officer who had as her G.P. a close family friend.
- 2) This G.P. would prescribe for any little complaint the patient had.
- 3) The list of drugs this lady was receiving became longer and longer.
- 4) The problem was compounded by the fact that the patient was fond of a glass or two of brandy in the evening.
- 5) Nurses began to report that the effect of this relatively small amount of alcohol seemed exaggerated and that it was impossible to get the patient to the toilet during the night, she was slurring her speech, losing the limited power she had in her legs and was becoming incontinent.
- 6) Requests to the patient to refrain from alcohol were ignored despite appeals to her 'professional knowledge'.
- 7) Requests to the G.P. to act on the problem led to long tearful sessions between him and his patient which resulted in a token discontinuation of a few of the prescribed drugs.
- 8) Over the following weeks these would be reintroduced by the G.P. as he bowed to pressure from the patient.
- 9) Nurses felt that because of their professional accountability that they could no longer be responsible for administering drugs at routine times when they knew the patient had partaken of alcohol.

Contd.

- 10) This may appear to have a simple solution - no drugs if alcohol has been taken. However, the drugs administered in a private nursing home are the property of the patient and not the home. (This of course is different in a hospital setting.) The patient was capable of self administration but our nursing home policy dictated that drugs were kept locked in our drugs trolley for the protection of other patients who might gain access to supplies kept in each bedroom.

A solution had to be found that protected both the patient and the nurses.

We decided to seek the advice of the pharmacist responsible for dispensing the drugs. This proved to be our salvation.

He did a full analysis of all the drugs being prescribed from two angles.

- a) The effect of alcohol on each drug.
- b) The effect of each drug on the others.

In the end he was able to write directly to the G.P. to point out that not only was alcohol dangerous with the drug regime prescribed but several of the drugs also antagonised each other.

The G.P. was then forced to act and being aware of his relationship with the patient he called in the geriatric consultant who totally changed the patients regime. Being a retired nurse she was aware of the pecking order and accepted that her G.P. had been overruled.

Unfortunately the situation has to be dealt with this way on a six monthly basis but the nurses are now happy that their ethical problem is solved.

I hope this tale is of some interest to you. I wish you well with your research.

Yours sincerely

Robert Baron
University of Wolverhampton
School of Humanities and Social
Sciences
Dudley Campus
Castle View
Dudley DY1 3HR

8 January 1993

Dear Sir,

I am writing in response to your request in the Nursing Standard.
I hope that my experience can be of use to you.

Please do not hesitate to contact me if you need to.

Best wishes,

IINTRODUCTION

I am a Registered General Nurse with a background in Occupational Health, although now no longer in the profession.

As a feminist and socialist, I nevertheless hold moral objections to abortion, based on my views of inalienable rights to life for all humans but more importantly, on my disapproval of the infliction of suffering on others. I believe it is highly probable that fetuses are capable of suffering after a certain age of gestation, and that to kill a fetus is therefore morally wrong. For similiar reasons I am vegetarian.

I am an atheist, although I respect the Catholic views of "sanctity of life" as being very courageous.

I also believe that abortion is bad for female health, for physical, social and psychological reasons, and still carry around a mental picture of an aborted fetus, a vision that influenced my views profoundly.

BACKGROUND

I have held a number of posts as an Occupational Health Nurse. One of these was in a luxury hotel in London, where there were many young women. On about 5 occasions, I was called upon to counsel women seeking abortion. This usually involved dealing with requests for information, about how to obtain an abortion. But I had a good rapport with my clients, and many of these women were seeking support in their decision, from me.

THE ETHICAL DILEMMA

I faced the dilemma of caring for these women and not wanting to inflict my views on them. At the same time I felt I was not being true to myself if I gave them abortion information without telling them how I really felt about it, and I felt that I would also be lying to them, if I neglected to tell them this.

I further believed that abortion would probably cause them problems in various ways in the future, and that they should be warned of the risks that are there. For example, one young woman was being co-erced by her husband to have an abortion and I felt that losing her baby would be very bad for her health! I also felt that if we should give women freedom of information, we should tell them about the potential suffering of the fetus. "The silent scream" may be part of a propaganda programme but it is still truthful, however unpalatable. Only with all information can women make personal ethical decisions and I believe that as a health professional I had a duty to do this to the best of my ability.

But I did not want to hurt the women who had come to me for help and did not feel I had any right to condemn them. I made many

mistakes in dealing with these and other subsequent situations in other jobs. Eventually I made the decision to deal with any woman

coming to me considering a termination in this way;

I would give them as much information as I knew, including why I am against it. I also let them know that even if I may disapprove of their decision, I would still offer them support and could not condemn them. I felt this way I was being true to everyone.

CONSEQUENCES

Every woman I ever dealt with thanked me for supporting her, even those who knew of my moral stance. I believe that I managed to alienate nobody.

Some women were influenced by my argument and went on to have their babies, with the profound and wonderful change of life that entailed. They were glad they had them, including a girl with cystic fibrosis with whom I had explored all scenarios with, including her own right-to-life.

Some women had their terminations. They still came back to see me for support, including one woman who was experiencing post-operative pain etc.

The young woman who was coerced into having her termination came back to me full of pain and anger at her husband. I shared in that as best I could, without actually saying "I told you so." I hope that I was of some help to her.

CONCLUSION

I truly believe that I behaved to the best of my ability as a nurse, and that I acted with the best interests of the women at heart at all times. I am not a person who believes in inflicting her views on others but I feel these experiences taught me the importance of standing up to say what you believe in and being true to yourself, which is of course entirely different.

I don't think any of the women resented me because I believe they understood the ethical dilemmas abortion poses. Maybe in other situations some of them might agree with me.